



# Alabama Department of Examiners of Public Accounts

## *Sunset Report* **Board of Dental Examiners** **Birmingham, Alabama**

October 1, 2019 through September 30, 2023

AUDEMUS JURA NOSTRA DEFENDERE  
ALABAMA STATE HOUSE

*Rachel Laurie Riddle, Chief Examiner*





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Department of  
**Examiners of Public Accounts**

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August 21, 2024

Representative Margie Wilcox  
Chairman, Sunset Committee  
Alabama State House  
Montgomery, Alabama 36130

Dear Representative Wilcox:

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the Board of Dental Examiners in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the Board of Dental Examiners in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

Rachel Laurie Riddle  
Chief Examiner

**Examiners**  
Charnelle Martin  
Kierra Burston



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# PROFILE

## Purpose/Authority

The Board of Dental Examiners (the “Board”) was created by Act Number 90, Acts of Alabama 1880-81 to regulate the practice of Dentistry in the State of Alabama. The Board of Dental Examiners of Alabama’s statutes were updated by Act Number 100, Acts of Alabama 1959 to provide for the regulation, examination, investigation, and licensing of persons engaged in the practice or teaching of dentistry, the practice of dental hygiene, or the operation of dental laboratories; authorizing the suspension and revocation of such licenses; providing for the administration and enforcement of the Act, imposing fees, and charges, making appropriations, prescribing penalties, and repealing conflicting laws.

The Board’s current statutory authority is found in the *Code of Alabama 1975*, Sections 34-9-1 through 34-9-90 and 34-38-1 through 34-38-8. The mandated function of the Board of Dental Examiners of Alabama is to protect the public of the State of Alabama in matters relating to dentistry through, among other things, licensing applicants who seek to practice dentistry or dental hygiene and disciplining dentists and dental hygienists who violate the provisions of the Alabama Dental Practice Act.

The Board licenses qualified applicants as dentists or dental hygienists. The Board permits qualified dentists to use general anesthesia and intravenous sedation in their practices. The Board administers the Alabama Dental Hygiene Program (ADHP) for the training of dental hygienists. The Board performs initial inspections of facilities, equipment, and dental personnel for first time applicants for general anesthesia and parenteral (intravenous) sedation permits. The Board also inspects mobile and portable dental clinics and annually issues state-controlled substance registration certificates to licensees.

The Alabama Uniform Controlled Substance Act established by Act Number 1971-1407, Acts of Alabama, enumerated as the *Code of Alabama 1975*, Section 20-2-1 through 20-2-302 was created as part of the state’s effort to classify, regulate, and prevent abuse of controlled substances. The *Code of Alabama 1975*, Section 20-2-51 requires every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state to obtain annually a registration issued by the certifying boards in accordance with its rules. The *Code of Alabama 1975*, Section 20-2-217 requires each licensed dentist to obtain a Qualified Alabama Controlled Substances Registration Certificate authorizing the licensee to prescribe or dispense controlled substances.

**The following Act passed since the last sunset review has been codified in the Board’s current statutory authority.**

Act Number 2023-362, Acts of Alabama, relating to the practice of dentistry and dental hygiene; to amend Sections 34-9-1, 34-9-5, 34-9-10, 34-9-11, 34-9-15, 34-9-26, 34-9-27, 34-9-43, 34-9-60, 34-9-63, and 34-9-86, *Code of Alabama 1975*; and to further provide for penalties for violations; and qualifications for licensure and administration of controlled substances by dentists and dental hygienists.

**The following Act passed during the 2024 legislative session and has not been codified in the Board’s current statutory authority.**

Act Number 2024-89, Acts of Alabama, relating to the Board of Dental Examiners of Alabama; to add Section 34-9-10.01 to the *Code of Alabama 1975*; to authorize the board to issue special volunteer licenses to allow eligible nonresident dentists and dental hygienists to practice in this state for a limited time under the supervision of a licensed dentist in connection with an organized charitable event; and to amend Section 34-9-16, *Code of Alabama 1975*, to increase the annual dental hygiene registration fee and to establish a fee for the issuance of special volunteer licenses. This Act will be effective October 1, 2024. A copy of the Act can be found in Appendix II of this report.

<b><u>Characteristics</u></b>	
<b>Members and Selection</b>	<p>The Board consists of seven members:</p> <ul style="list-style-type: none"> <li>• One member selected by the Alabama Dental Society.</li> <li>• Five dentists, elected by all licensed dentists residing and practicing in the state. Candidates may be nominated by any group of ten or more licensed dentists residing and practicing in the state.</li> <li>• One dental hygienist, elected by all licensed dental hygienists residing and practicing in the state. Candidates may be nominated by any group of ten or more licensed dental hygienists residing and practicing in the state.</li> </ul> <p><i>Code of Alabama 1975</i>, Section 34-9-40</p>
<b>Term</b>	<ul style="list-style-type: none"> <li>• Members serve five-year terms.</li> <li>• Every elected member’s term shall begin immediately upon taking an oath to properly and faithfully discharge the duties of his or her office and until his or her successor is elected and qualified.</li> <li>• A member elected or appointed shall not at the expiration of the term be eligible to succeed himself or herself.</li> </ul> <p><i>Code of Alabama 1975</i>, Section 34-9-40</p>
<b>Qualifications</b>	<ul style="list-style-type: none"> <li>• Members must have been actively engaged in the practice of dentistry/dental hygiene in the State of Alabama for at least five years preceding the date of their election.</li> <li>• Each member of the Board shall be a citizen of the state.</li> <li>• No member of the Board shall be a member of the faculty of any dental school, dental college, dental hygiene school, or dental hygiene college or receive any financial benefits for teaching in any dental school, dental college, dental hygiene school, or dental hygiene college.</li> <li>• No member of the Board shall have a financial interest in a commercial dental laboratory or a dental supply business.</li> </ul> <p><i>Code of Alabama 1975</i>, Section 34-9-40</p>

<b>Consumer Representation</b>	No statutory requirement.
<b>Racial Representation</b>	No specific statutory requirement. One black member serving.
<b>Geographical Representation</b>	No statutory requirement.
<b>Other Representation</b>	The membership of the Board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.  <i>Code of Alabama 1975</i> , Section 34-9-40
<b>Compensation</b>	Board members shall receive as compensation a sum to be fixed by the Board for each day actively engaged in the duties of their office. Additionally, Board members shall receive the same per diem and travel allowance as is paid by law to state employees for each day actively engaged in the duties of their office. The secretary-treasurer shall receive such compensation as may be fixed by the Board, which shall be in addition to his or her per diem and expenses.  <i>Code of Alabama 1975</i> , Section 34-9-41  <u>Board Members receive the following compensation:</u> <ul style="list-style-type: none"> <li>• \$300 for each day actively engaged in the duties of their office.</li> <li>• A sitting Board member who observes a licensing examination, without actively participating in the examination, shall be compensated \$100 per day out of Board funds.</li> <li>• \$100 per hour, not to exceed \$300 per day, for documented time spent in review of assigned cases while serving on an Investigative or a Complaint Review Team.</li> </ul> <i>Administrative Rule 270-X-1.08</i>  The secretary/treasurer of the Board of Dental Examiners of Alabama receives \$400.00 per month compensation in addition to the per diem and expenses received as a board member.  <i>Source:</i> Executive Director
<b>Attended Board Member Training</b>	Seven Board members Two Former Board members Eight staff members Former Executive Director Current Executive Director

<b><u>Operations</u></b>	
<b>Administrator</b>	<p>W. Blake Strickland, Executive Director  Annual Salary: \$136,620.43  Appointed by the Board</p> <p><i>Code of Alabama 1975</i>, Section 34-9-43(8)(a)</p>
<b>Location</b>	<p>2229 Rocky Ridge Road  Birmingham, AL 35216</p> <p>Office Hours: Monday - Friday 8:00 am – 5:00 pm</p>
<b>Real Property</b>	<p>The Board owns the property located at 2229 Rocky Ridge Road, Birmingham, AL. This property is used as the Board’s office.</p>
<b>Employees</b>	<p>Eight employees</p>
<b>Legal Counsel</b>	<p>The Board utilized the following attorneys:</p> <ul style="list-style-type: none"> <li>• Donna Dixon, D.M.D., M.A., J.D., an employee of the board, serves as the Board’s prosecuting attorney.</li> <li>• Aaron Dettling of Fortif Law Partners, LLC, a private attorney, has served as the Board’s hearing officer and is currently contracted as the Board’s general counsel.</li> <li>• The Board requested assistance from the Alabama Attorney General’s Office to provide legal assistance due to a conflict of interest for the Board of Dental Examiners.</li> </ul> <p><i>Code of Alabama 1975</i>, Section 34-9-43(8)(b)</p>
<b>Subpoena Power</b>	<p>In all matters pending before it, the Board shall have the power to issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, and records, documentary evidence and materials or other evidence.</p> <p><i>Code of Alabama 1975</i>, Section 34-9-46</p>
<b>Internet Presence</b>	<p><a href="https://dentalboard.org/">https://dentalboard.org/</a></p> <p>At the time of this review, the Board’s website <i>did not</i> include financial reports, a fee schedule for potential licensees to view, or a list of all individuals licensed with the Board. <i>See Significant Issue 2024-006</i>.</p> <p>The Board’s website does include the minutes of Board meetings, current rules, current statutes, announcements, and newsletters.</p> <p><i>Code of Alabama 1975</i>, Section 34-9-43(a)(11)</p>

<b><u>Financial</u></b>																																	
<b>Source of Funds</b>	Licensure fees, annual renewal license certificate fees, examination fees, fines, and penalties.																																
<b>State Treasury</b>	<p>No, the Board operates outside the State’s Treasury. The secretary-treasurer shall deposit to the credit of the Board all funds paid to the Board in a bank selected by its members.</p> <p>The Board maintains the following accounts:</p> <ul style="list-style-type: none"> <li>• Checking Account with Synovus Bank.</li> <li>• Money Market Account with Synovus Bank.</li> </ul> <p><i>Code of Alabama 1975, Section 34-9-41</i></p>																																
<b>Required Distributions</b>	None.																																
<b>Unused Funds</b>	The Board retains unused funds at the fiscal year-end.																																
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<b>Licensees</b>	<p>As of September 30, 2023:</p> <p><b>Licensees:</b></p> <table border="1"> <tbody> <tr> <td>Dental License</td> <td>2,414</td> </tr> <tr> <td>Dental Hygienist License</td> <td>4,273</td> </tr> <tr> <td>Special Purpose License*</td> <td>1</td> </tr> <tr> <td>Retired/Disabled License*</td> <td>13</td> </tr> <tr> <td>Military Spouse License*</td> <td>4</td> </tr> <tr> <td><b>Total</b></td> <td><b>6,705</b></td> </tr> </tbody> </table> <p>* As of March 22, 2024</p> <p><b>Permits:</b></p> <table border="1"> <tbody> <tr> <td>Controlled Substance Permit</td> <td>1,906</td> </tr> <tr> <td>General Anesthesia Permit</td> <td>186</td> </tr> <tr> <td>Hygiene Infiltration Permit</td> <td>449</td> </tr> <tr> <td>Oral Conscious Sedation Permit</td> <td>289</td> </tr> <tr> <td>Parenteral Sedation Permit</td> <td>43</td> </tr> <tr> <td>Special Teaching Permit</td> <td>15</td> </tr> <tr> <td>Teaching Permit</td> <td>11</td> </tr> <tr> <td>Portable Unit Permit *</td> <td>5</td> </tr> <tr> <td>Mobile Dental Facility Permit *</td> <td>1</td> </tr> <tr> <td><b>Total</b></td> <td><b>2,905</b></td> </tr> </tbody> </table> <p>*As of March 20, 2024</p> <p><b>Source:</b> Executive Director</p>	Dental License	2,414	Dental Hygienist License	4,273	Special Purpose License*	1	Retired/Disabled License*	13	Military Spouse License*	4	<b>Total</b>	<b>6,705</b>	Controlled Substance Permit	1,906	General Anesthesia Permit	186	Hygiene Infiltration Permit	449	Oral Conscious Sedation Permit	289	Parenteral Sedation Permit	43	Special Teaching Permit	15	Teaching Permit	11	Portable Unit Permit *	5	Mobile Dental Facility Permit *	1	<b>Total</b>	<b>2,905</b>
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<p><b>Licensure Qualifications</b></p>	<p><b><u>Dental License</u></b></p> <ul style="list-style-type: none"> <li>• Every individual who desires to practice dentistry within the State of Alabama shall file an application accompanied by the appropriate fee prescribed by the Board.</li> <li>• Notwithstanding any particular requirement or method of obtaining licensure set forth in this chapter, every applicant: <ul style="list-style-type: none"> <li>▪ Shall be at least 19 years of age.</li> <li>▪ Of good moral character.</li> <li>▪ A citizen of the United States or legally present in the United States.</li> <li>▪ A graduate of a dental school or college accredited by the American Dental Association Commission on Dental Accreditation and approved by the Board.</li> <li>▪ Shall satisfy any other requirement set forth in any rule adopted by the Board.</li> </ul> </li> </ul> <p><b><u>Dental Hygienist License</u></b></p> <ul style="list-style-type: none"> <li>• Passed the examination.</li> <li>• Have been found qualified by the Board.</li> <li>• He or she is 19 years of age.</li> <li>• Of good moral character.</li> <li>• Each applicant for examination and license as a dental hygienist shall meet either of the following requirements: <ul style="list-style-type: none"> <li>➤ Has graduated from a school of dental hygiene that has been approved by the Board.</li> <li>➤ Has served as a dental assistant for a period of time established by Board rule and has served at least one year as a dental hygienist trainee under a training permit issued by the Board to a qualified dentist practicing in this state in accordance with the dental hygienist training program established by the Board.</li> </ul> </li> </ul>
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**Licensure  
Qualifications  
(continued)**

**Special Purpose License**

- Shall meet the requirements for applicants seeking licensure by credentials.
- An applicant desiring to practice a specialty only shall satisfy the following requirements:
  - The specialty shall be one in a branch of dentistry approved by the Board.
  - The applicant shall satisfy the existing educational requirements and standards set forth by the Board for that approved specialty.
  - An applicant who chooses to announce or practice a specialty shall limit his or her practice exclusively to the announced special area or areas of dental practice.
  - If an applicant who is initially licensed by credentials for a specialty practice decides to renounce his or her specialty and practice general dentistry and the license originally issued did not require a general dental license but rather a specialty license, or if the applicant originally passed only a specialty examination, the applicant may not practice general dentistry until he or she successfully passes the Board's regular general dentistry examination. However, if the applicant passed a general dentistry examination or holds a general dentistry license and practices a specialty, then decides not to continue that specialty but to practice only general dentistry, the applicant is eligible for licensure by credentials as a general dentist.

**Military License**

- Holds one or more Qualifying License(s), all of which are in Good Standing.
- Has engaged in the Active Practice of dentistry or dental hygiene for the 24 months preceding the Military Orders.
- Because of Military Orders, relocates his or her residency from a place outside Alabama to a place within Alabama.
- Submits a completed application, supporting documentation, and the processing fee.

***Code of Alabama 1975***, Sections 34-9-6.1, 34-9-10, 34-9-26  
***Administrative Rules*** 270-X-2-.19, 270-X-3-.03

**Examinations****Dental Examinations****University of Alabama-Birmingham (UAB): School of Dentistry****National Board Examinations**

<b>Graduating Year</b>	<b># of Students</b>	<b>Part II % Passed</b>
2020	76	94.2%

**Integrated National Board Dental Examination (INBDE)**

<b>Graduating Year</b>	<b># of Students</b>	<b>% Passed</b>
2021	78	100%
2022	78	100%
2023	80	100%

The INBDE is a two-day examination, which replaces the NBDE Part I and NBDE Part II, and is designed to provide information to U.S. dental boards seeking to determine whether licensure candidates have the necessary level of clinical skills to safely practice entry-level dentistry.

**Clinical Examinations**

<b>Graduating Year</b>	<b>CDCA-WREB-CITA*</b>	<b>CRDTS**</b>
2020	100%	94%
2021	100%	100%
2022	99%	(Not Taken)
2023	99%	100%

\*As of August 1, 2022, CDCA-WREB-CITA is one agency with one mission, offering a common, uniform licensure examination for dental and dental hygiene professions.

\*\*CRDTS- Central Regional Dental Testing Services

**Examinations  
(continued)**

**Dental Hygienist Examinations**

**Wallace State Community College: Dental Hygiene Program**

**National Board Dental Hygiene Examination (NBDHE)**

<b>Year</b>	<b>% Passed</b>
2020	93%
2021	80%
2022	56%
2023	82%

**State/Regional Boards: First Attempt**

<b>Year</b>	<b>% Passed</b>
2020	86%
2021	92%
2022	96%
2023	100%

**Calhoun Community College: Dental Hygiene Program**

**National Board Dental Hygiene Examination (NBDHE)**

<b>Year</b>	<b>% Passed</b>
2023*	95%

**State/Regional Boards: First Attempt**

<b>Year</b>	<b># of Students</b>	<b>% Passed</b>
2023*	12	100%

\*2023 was the first year of Graduates from Calhoun College.

**Fortis Institute: Dental Hygiene Program**

**State/Regional Boards: First Attempt**

<b>Year</b>	<b># of Students</b>	<b>% Passed</b>
2020	4	100%
2021	10	100%
2022	11	100%
2023	19	100%

**Alabama Dental Hygiene Program (ADHP)**

**American Board of Dental Examiners**

<b>Year</b>	<b># of Students</b>	<b>% Passed</b>
2020*		96%
2021	15	87%
2022	150	99%
2023	136	100%

\*State test only.

**Source:** Executive Director

<p><b>Reciprocity</b></p>	<p>Any applicant who possesses a current license in any state, who has passed an examination approved by the Board, and who has, since graduation from dental or dental hygiene school, practiced or participated in a clinical residency or practiced dentistry or dental hygiene in the Armed Forces or with the public health service shall be eligible for licensure if his or her application is received by the Board within five years of the completion of the subject residency or Armed Forces or public health service commitment.</p> <p>There are no state specific agreements.</p> <p><i>Code of Alabama 1975</i>, Section 34-9-10(c)</p>
<p><b>Renewals</b></p>	<p>Every dentist and dental hygienist licensed or permitted to practice are required to submit their renewal form and fees annually on or before October 1st.</p> <p>Licensees with a special purpose license to practice dentistry across state lines must submit a completed renewal form prescribed by the Board on or before October 1st of the third year of the license. Failure to secure the annual registration certificate by the 1st of January will result in automatic revocation of the special purpose license to practice dentistry across state lines.</p> <p>100% of licenses and permits were renewed online in FY 2023.</p> <p><i>Code of Alabama 1975</i>, Sections 34-9-15 and 34-9-10  <i>Administrative Rule</i> 270-X-2-.18(5)  <i>Source:</i> Executive Director</p>

<b>Licensee Demographics</b>	Data not collected by the Board.
<b>Continuing Education</b>	<p><b><u>Dentists</u></b></p> <ul style="list-style-type: none"> <li>• Shall complete 20 hours of continuing education every year as a condition of licensure renewal. No more than half of the hours can be completed or satisfied by analog and/or digital media, journals, publications, internet courses, correspondence courses, or distance-based education whether by video or audio format. The required hours must be completed in the 12-month period beginning October 1 of each year and ending September 30 of the next year.</li> <li>• Must maintain current certification in cardiopulmonary resuscitation (CPR).</li> <li>• Must maintain current certification in infectious disease control.</li> <li>• Must achieve a minimum of one hour of Continuing Education in the subject of prescribing controlled substances every two years.</li> <li>• Beginning with the Continuing Education cycle that begins on October 1, 2023, dentists must achieve a minimum of one hour in the subject of ethical considerations in the practice of dentistry each year.</li> <li>• Dentists who hold an Oral Conscious Sedation Permit must also complete a minimum of two hours of Continuing Education in the subject of sedation and/or anesthesia every two years.</li> </ul> <p><b><u>Dental Hygienists</u></b></p> <ul style="list-style-type: none"> <li>• Shall complete at least 12 hours annually of continuing education. No more than half of the hours can be completed or satisfied by analog and/or digital media, journals, publications, internet courses, correspondence courses, or distance-based education whether by video or audio format. The required hours must be completed in the 12-month period beginning October 1 of each year and ending September 30 of the next year.</li> <li>• Must maintain current certification in cardiopulmonary resuscitation (CPR).</li> <li>• Must maintain current certification in infectious disease control every two years.</li> <li>• Must achieve a minimum of one hour of Continuing Education in the subject of infectious disease control every two years.</li> <li>• Beginning with the Continuing Education cycle that begins on October 1, 2023, dental hygienists must achieve a minimum of one hour in the subject of ethical considerations in the practice of dental hygiene each year.</li> </ul> <p><i>Code of Alabama 1975, Section 34-9-15</i>  <i>Administrative Rule 270-X-4-.04</i></p>

## **SIGNIFICANT ISSUES**

**Significant Issue 2024-001:** The minutes of seventy-one Board meetings were reviewed and the following errors were noted:

- The location of the meeting was not recorded in the minutes fourteen times.
- The minutes of three meetings reflect participation and voting by a Board member, not listed as present at the meeting.
- The minutes do not reflect the Board’s approval of the promotion of an investigator to the Board’s Interim Executive Director.

The *Code of Alabama 1975*, Section 36-25A-4 states, “A governmental body shall maintain accurate records of its meetings, excluding executive sessions, setting forth the date, time, ***place, members present or absent, and action taken*** at each meeting. Except as otherwise provided by law, the records of each meeting shall become a public record and be made available to the public as soon as practicable after approval.”

**Significant Issue 2024-002:** Based on the review of minutes of the Board’s meetings, it was noted the Board waived the following fees without statutory authority.

- On December 2, 2021, the Board waived the mobile clinic permit fee for three individuals.
- On December 8, 2023, the Board waived the application fee for a mobile dental facility and the monitoring fee for the final year of the Wellness Committee’s deferral program for one hygienist.
- On February 9, 2024, the Board waived the application fee for a mobile dental facility.

Neither the Board’s statutes nor their administrative rules allow for the Board to grant waivers for these fees. As a result, the licensees obtained those licenses without paying the respective fees.

According to the *Code of Alabama 1975*, Section 34-9-16, the Board ***shall establish and collect*** reasonable fees provided for in this chapter within the ranges set forth and without having to engage in the rulemaking process. The Board can charge no more than \$1,500.00 for the Mobile Dental Application/Inspection Fee, \$750.00 for a Mobile Dental Facility/Portable Dental Operation Application for Certificate of Registration Fee, and \$2,000.00 for the Alabama Impaired Dental Professionals Committee Annual Monitoring Fee.”

The Board’s ***Administrative Rule*** 270-X-4-.09(3) related to Mobile/Portable Dental Facilities states, “No Certificate of Registration or renewal thereof shall be issued until the required fee is paid.”

The Board has established the Mobile Dental Facilities/Portable Dental Operation Application for Certificate Registration Fee at \$750.00, the Mobile Dental Application/Inspection Fee at \$1,500.00, and the Dental Professionals Wellness Committee Monitoring Fee was \$775.00 annually but, increased to \$1,000.00 annually in June 2022.

**Significant Issue 2024-003:** The Board met twelve times to discuss legislative incentives. While the Board posted the requisite notice for the twelve meetings to the Secretary of State’s website, **there were no minutes kept and provided for review for ten of the twelve meetings as required** by the Open Meetings Act.

The *Code of Alabama 1975*, Section 36-25A-2(6)(a), in part, defines a meeting as “2. The prearranged gathering of a quorum of a governmental body or a quorum of a committee or subcommittee of a governmental body during which the full governmental body, committee, or subcommittee of the governmental body is authorized, either by law or otherwise, to exercise the powers which it possesses or approve the expenditure of public funds. 3. The gathering, whether or not it was prearranged, of a quorum of a governmental body during which the members of the governmental body deliberate specific matters that, at the time of the exchange, the participating members expect to come before the full governmental body at a later date.”

The *Code of Alabama 1975*, Section 36-25A-4 states, “A governmental body shall ***maintain accurate records of its meetings***, excluding executive sessions, setting forth the date, time, place, members present or absent, and ***action taken at each meeting***. Except as otherwise provided by law, the records of each meeting shall become a public record and be made available to the public as soon as practicable after approval.”

**Significant Issue 2024-004:** The Board did not post requisite notice of meetings held on **October 11, 2022, November 4, 2022, and February 10, 2023, on the Secretary of State’s website**. As a result, the public may not have been aware these meetings occurred and given the opportunity to attend.

The *Code of Alabama 1975*, Section 36-25A-3(b) states, “Unless otherwise specified by law directly applicable to the governmental body, notice of a meeting, as defined in Section 36-25A-2(6) a. 2. and 3. as well as meetings called pursuant to Section 11-43-50 shall be posted as soon as practicable after the meeting is called and in no event less than 24 hours before the meeting is scheduled to begin, unless such notice (i) is prevented by emergency circumstances requiring immediate action to avoid physical injury to persons or damage to property; or (ii) relates to a meeting to be held solely to accept the resignation of a public official or employee. In such situations, notice shall be given as soon as practical, but in no case less than one hour before the meeting is to begin. At the same time general notice is given, special notice shall be directed to any person who has registered to receive direct notices pursuant to the provisions of subsection (a)(6)”.

**Significant Issue 2024-005:** The Board did not post vacancy notices forty-five days prior to the expiration of seven Board members' terms. Vacancy notices were not posted for two Board members terms whose terms expired October 2019, two members terms expired October 2020, one member whose term expired October 2021, one member whose term expired October 2022 and one member whose term expired October 2023. Further, a vacancy notice was not posted within fifteen days of one member's resignation. As a result, potential candidates did not receive notice of vacancies and caused the Board not to receive input from all interested candidates to fill the vacancies.

The *Code of Alabama 1975*, Section 36-14-17(c) states, "The chair of an existing board shall notify the Secretary of State by electronic means of a vacancy as follows:

- (1) For a vacancy scheduled to occur on the board as a result of the expiration of a term, at least 45 days before the vacancy occurs.
- (2) For a vacancy occurring for any reason other than the expiration of a term, as soon as possible, and in any case within 15 days after the occurrence of the vacancy.

**Significant Issue 2024-006:** At the time of testing, the Board had not published, on a quarterly basis, financial information, or other pertinent information on its website as required. Financial information had been included in the Board's minutes posted on its website until November 2022. However, no financial information has been included in the minutes since that time. Additionally, the Board did not have a copy of its fee schedule, or a list of all individuals licensed to practice published on its website.

The *Code of Alabama 1975*, Section 34-9-43(a)(11) states that the Board shall "Publish, on a quarterly basis, all minutes, except minutes of executive sessions, financial reports, schedules of meetings, including anticipated executive sessions, and *other pertinent information on the board's* website no later than 90 days following the date of occurrence. In addition, publish or post annually the rules by the board, a copy of the Dental Practice Act, and a list of all individuals licensed to practice under this chapter."

Further, *Code of Alabama 1975*, Section 34-9-16 states, "The board *shall establish* and collect reasonable fees provided for in this chapter within the ranges set forth below and without having to engage in the rulemaking process."

**Significant Issue 2024-007:** The Board's Leave Accrual and Usage spreadsheets were reviewed and compared to employees' timesheets. This review revealed errors related to the Board's leave records not corresponding with leave amounts reflected on employees' timesheets. As a result, two employees' leave balances required adjustments. Once brought to the attention of the Board's staff, these errors were corrected, and the employees' leave balances were corrected.

The *Code of Alabama 1975*, Section 36-12-2, states, "All public officers and servants shall correctly make and *accurately keep* in and for their respective offices or places of business all such books or sets of books, *documents*, files, papers, letters and copies of letters as at all times shall afford full and detailed information in reference to the activities or business required to be done or carried on by such officer or servant and from which the actual status and condition of such activities and business can be ascertained without extraneous information, and all of the books, documents, files, papers, letters, and copies of letters so made and kept shall be carefully protected and safely preserved and guarded from mutilation, loss or destruction."

**Significant Issue 2024-008:** **The Board did not compute and record compensatory time correctly for four employees.** Compensatory time, in some cases, was computed for hours worked in excess of eight hours per day instead of a 40-hour workweek; employees were given straight time when the employee had earned compensatory time at time and one-half; the hours earned and/or taken according to the employee's timesheet did not get entered into the Board's Leave Accrual and Usage spreadsheet. The following errors were found when reviewing the Board's records for compensatory time:

- One employee's compensatory leave was understated by 160:30 hours.
- One employee's compensatory leave was understated by 2:07 hours.
- One employee's compensatory leave was understated by 3:50 hours.
- One employee used 18:00 hours of compensatory time the employee did not have.

According to the *Fair Labor Standards Act*, non-exempt employees receive overtime pay **for hours worked over 40 in a workweek** at a rate of not less than time and one-half their regular rate of pay.

Additionally, the Board of Dental Examiners *Policies and Procedures Manual* states "Employees should make every effort to notify the Executive Director and receive approval prior to working more than 40 hours within a work week. Non-exempt employees that work more than 40 hours within a work week are entitled to receive overtime or compensation pay at a rate of 1.5 times the hourly rate."

Once brought to the attention of the Board's staff, these errors were corrected, and the employees' leave balances were corrected.

**Significant Issue 2024-009:** **The Board incorrectly paid two employees for accumulated sick leave upon separation from the Board.** An employee was paid for all their accumulated sick leave, instead of 50% of their accumulated sick leave upon retirement. Another employee was paid for all their accumulated sick leave upon resignation. These errors resulted in overpayments to these employees. These former employees were notified of the overpayments and the amounts were repaid to the Board prior to the conclusion of the Sunset review.

The Board's *Personnel Policy Employee Handbook* states, "This Personnel Policy and Employee Handbook incorporates by reference provisions from the State of Alabama Fiscal Policy and Procedures Manual, including but not limited to, related to accrual of leave, military service, and **separation from employment**. If the Board's stated policy or procedure conflicts with the State Fiscal Policy and Procedures Manual, the Board will follow the policies and procedures set forth by the State of Alabama."

In addition, the Board's *Personnel Policy Employee Handbook* states, "Payment for accrued leave at the time of an employee's separation from employment is process in the manner set forth in the State of Alabama's Fiscal Policies and Procedures Manual."

At the time the payments were made to the employees, the Department of Finance's *Fiscal Policy and Procedures Manual* states, "In accordance with *Code of Alabama 1975*, Section 36-26-36, as amended, an employee is entitled to receive payment of 50 percent of accrued but unused sick leave, up to a maximum of 1,200 hours (in most cases), *at the time of his retirement*. These payments shall be made at the rate of 1/2080 of the employee's regular annual pay at the time of the employee's retirement." Further, the Department of Finance's *Fiscal Policy and Procedures Manual* contained no provision providing for the payment of unused sick leave to an employee upon resignation.

**Significant Issue 2024-010: The Board granted employees July 3, 2023 as a paid holiday that is not authorized by state law and was not designated as a holiday by the Governor.** The Board's *Personnel Policy Employee Handbook* states, "The Board office will close on all *legal* holidays as set by state law and other days as designated by the Governor."

The *Code of Alabama 1975*, Section 1-3-8(a) states in part, "Sunday, Christmas Day, New Year's Day, Martin Luther King, Jr.'s birthday, Robert E. Lee's birthday, George Washington's birthday, Thomas Jefferson's birthday, Confederate Memorial Day, National Memorial Day, Jefferson Davis's birthday, the Fourth day of July, Labor Day, Columbus Day and Fraternal Day, Veterans' Day, American Indian Heritage Day, and the day designated by the Governor for public thanksgiving shall each be deemed a holiday."

**Significant Issue 2024-011: The Board purchased seven meals totaling \$1,541.87 for Board members, staff members, and guests attending Board meetings.** These expenditures were reviewed, and the following issues were noted:

- Meals were provided for Board members, staff and guests who were not entitled to a meal allowance.
- One Board member received both a meal and claimed per diem on their travel claim.
- On seven separate occasions, costs per eligible attendees exceeded the \$12.75 meal allowance by \$5.86 to \$36.88. These expenditures for meals exceeded the statutorily allowed amount by \$1,019.13.

The *Code of Alabama 1975*, Section 36-7-20(b) states, "No travel allowance shall be paid for a trip of less than six hours' duration. For travel which does not require an overnight stay, *the traveler shall be paid a meal allowance of 15 percent of the regular per diem rate for a trip of from six to 12 hours' duration*, and for travel in excess of 12 hours' duration, the traveler shall be paid one meal allowance and one-fourth of the per diem allowance."

Opinion to Honorable Robert Childree, State Comptroller, dated April 26, 2001, Attorney General Opinion 2001-168 states, "The State may, however, provide refreshments and meals during a meeting that lasts through a mealtime as long as the total costs of the meals and the refreshments provided throughout the day do not exceed the amount allowable to an individual employee for in-state travel."

Opinion to Honorable N. Genelle Lee, Executive Officer, dated May 6, 2003, Attorney General Opinion 2003-137 states, "Meals and refreshments may be provided when a meeting lasts all day, and participants work through lunch or when an examination lasts all day and participants are not allowed to leave the area."

**Significant Issue 2024-012: The Board purchased food and food supplies totaling \$1,666.46 for the Alabama Dental Hygiene Program’s Pinning Ceremony.**

The *Code of Alabama 1975*, Section 34-9-41 states, “The board is authorized to expend such funds as shall be necessary to enforce the provisions of this chapter; to pay salaries, expenses and other costs herein provided; to promote the arts and science of dentistry; and for such other purposes as the board shall consider to be in the best interest of dentistry in this state.”

Opinion to Honorable N. Genelle Lee, Executive Officer, dated May 6, 2003, A. G. Opinion 2003-137 states, “We have previously stated that public funds may be used to pay for meals and/or refreshments served at business meetings when the meals are directly related to the business of the entity, and the meals and refreshments are incidental to the meeting. In order for meals to be an incidental part of the meeting, the primary purpose of the gathering must be to have an official meeting at which business is conducted, *not a social gathering at which food is provided.*”

**Significant Issue 2024-013: During the examination period, the Board of Dental Examiners purchased two vehicles without going through the process of getting sealed bids and awarding the contract to the lowest responsible bidder as required or using a current state contract.** On December 5, 2019, a vehicle was purchased for \$34,338.40 and on October 11, 2022, another vehicle was purchased for \$37,064.70.

Upon inquiry, the Board stated they used a state bid/contract for both vehicles. A review of supporting documentation provided showed the master agreement with the vendor used to purchase the vehicles was effective April 1, 2020 through April 1, 2021. The purchase of both vehicles was outside the effective dates of the master agreement.

At the time these purchases were made, the *Code of Alabama 1975*, Section 41-16-20(a) stated, “With the exception of contracts for public works whose competitive bidding requirements are governed exclusively by Title 39, all contracts of whatever nature for labor, services, work, or for the purchase or lease of materials, equipment, supplies, other personal property or other nonprofessional services, involving fifteen thousand dollars (\$15,000) or more, made by or on behalf of any state department, board, bureau, commission, committee, institution, corporation, authority, or office shall, except as otherwise provided in this article, be let by free and open competitive bidding, on sealed bids, to the lowest responsible bidder.”

**Significant Issue 2024-014: The Board did not go through the Request for Proposal (RFP) process when procuring professional services and/or did not execute a contract for the following services:**

- Auditing and accounting services.
- Video staff and editing services and acting services for training videos for the Alabama Dental Hygiene Program.
- Evaluation services performed on behalf of the Board by four contractors.
- Lecture services provided by a Board Member for the Alabama Dental Hygiene Program.
- A former employee was rehired as an independent contractor without executing a contract.

The *Code of Alabama 1975*, Section 41-16-72(4) (effective through September 30, 2022) states, “The Director of Finance, through the Division of Purchasing of the Department of Finance, shall establish and maintain lists of professional service providers, other than those specifically named in this section, which may be required from time to time by any state agency, department, board, bureau, commission, authority, public corporation, or instrumentality. When such professional services are needed, the purchasing state entity shall solicit proposals from the professional service providers desiring to receive requests for proposals. The purchasing state entity shall select the professional service provider that best meets the needs of the purchasing entity as expressed in the request for proposals. Price shall be taken into consideration. In the event the fees paid to the selected professional service provider exceed by 10 percent the professional service fee offered by the lowest qualified proposal, the reasons for selecting a professional service provider must be stated in writing, signed by the director of the purchasing state entity, and made a part of the selection record.”

The *Code of Alabama 1975*, Section 41-4-133(a)(1) (effective October 1, 2022) states, in part, “Unless determined otherwise by the Chief Procurement Officer, professional services shall be procured by competitive sealed proposals.

**Significant Issue 2024-015: The Board does not have effective internal controls in place to ensure payments are made in accordance with the contract’s specified terms and conditions.** The accounting firm used by the Board was compensated an amount in excess of the total contract amount. In fiscal year 2021, the total contract amount was set at \$12,500.00. However, the accounting firm was paid a total of \$18,243.75, resulting in an overpayment of \$5,743.75.

The Board is responsible for ensuring amounts paid are in accordance with and do not exceed amounts agreed upon in contracts. Further, the Board is responsible for ensuring that contract invoices are properly reviewed and analyzed, and that the Board makes payments to contractors only for goods and services received and accepted pursuant to contractual terms and conditions.

**Significant Issue 2024-016: The Board’s asset listing did not reflect the purchase of five laptops, two sofas, and a conference table totaling \$11,572.96.**

The *Code of Alabama 1975*, Section 36-16-8(1) states, “Except for books, the property manager shall make a full and complete inventory of all nonconsumable personal property and certain other items of personal property deemed important or sensitive enough by the Property Inventory Control Division to be included in the inventory of state property of the value of five hundred dollars (\$500) or more owned by the state and used or acquired by the department or agency.”

According to Section V. Inventory Procedures in the State Auditor’s Office Property Manual, within 30 days of receiving an item of furniture or equipment having a value of \$500 or more and all computers or laptops, regardless of cost, obtained by purchase, the Property Manager shall report receipt of the item to the State Auditor’s Office.

**Significant Issue 2024-017**: The Board purchased supplies and/or services without receiving procurement delegation authority from the Chief Procurement Officer (CPO) of the Alabama Department of Finance, Division of Procurement during the period of October 1, 2022 to current date. While the Board requested procurement delegation authority on January 2, 2024, fifteen months after the new procurement law became effective, to date, no such delegation has been granted. As a result, supplies and services were procured during this period without authorization from the Chief Procurement Officer.

The *Code of Alabama 1975*, Section 41-4-122 states in part,

- “(a) The Chief Procurement Officer shall serve as the central procurement officer of the state.
- (c) Except as otherwise specifically provided in this article, the Chief Procurement Officer, in accordance with rules adopted under this article, shall do all of the following:
- (1) Except for alcoholic beverages, which shall be purchased by the Alcoholic Beverage Control Board, *procure, or supervise the procurement of all supplies and services* needed by the state.

The *Code of Alabama 1975*, Section 41-1-124(a) states, “Except as otherwise provided in this article, all rights, powers, duties, and authority relating to the procurement of supplies and services now vested in, or exercised by, any governmental body under existing law are transferred to the Chief Procurement Officer.

Additionally, the *Code of Alabama 1975*, Section 41-1-123 states, “Subject to rules adopted under this article, the Chief Procurement Officer may delegate his or her authority to designees or to any department, agency, or official.”

The Alabama Department of Finance’s *Administrative Rule* 355-4-1-.02, effective October 1, 2022, states, “Where the State Procurement Code or these Rules require a written determination, the written determination shall set out sufficient facts, circumstances, and reasoning to substantiate the specific determination which is made. The Chief Procurement Officer is authorized to prescribe methods and operational procedures to be used in preparing written determinations. Each written determination shall be filed in the solicitation or contract file to which it applies, shall be retained as part of such file for so long as the file is required to be maintained, and except as otherwise provided by law or regulation, shall be open to public inspection.”

The Department of Finance’s *Fiscal Policy and Procedures Manual* states, “The Department of Finance, Division of Procurement (formerly, the Division of Purchasing), is established by statute (*Code of Alabama 1975*, Sections 41-4-110 through 115, as amended) and is under the direction of the Chief Procurement Officer (CPO). The CPO procures all supplies and services, *except as delegated by the CPO* or through statutory exceptions, for all State departments, boards, bureaus, commissions, agencies, offices, and institutions, as well as executing and supervising the performance of all contracts and leases for the use and acquisition of any supplies and services.”

**Significant Issue 2024-018:** Board members were not compensated in accordance with the Board’s *Administrative Rule* 270-X-1-.08 when actively engaging in the duties of the office or when a sitting board member observes a licensing examination. The following errors were noted:

- Ninety-six times the Board members were paid an hourly rate instead of the flat rate of \$300.00 per day while actively engaging in the duties of the office.
- Twenty-seven times the Board members were paid a flat rate less than the \$300.00 per day while actively engaging in the duties of the office.
- Eight times the Board members were paid more than the \$100.00 per day for observing licensing examinations.

The *Code of Alabama 1975*, Section 34-9-41 states, “Out of the fund of the board the members thereof shall receive as compensation a sum to be fixed by the board for each day actively engaged in the duties of their office, and in addition board members shall actively engaged in the duties of their office.”

The Board’s *Administrative Rule* 270-X-1-.08 (1) states, “The Board of Dental Examiners of Alabama shall comply with all the requirements of the *Code of Alabama 1975*, Section 34-9-41, concerning their meetings. Board members shall receive as compensation a sum of ***\$300 each day actively engaged in the duties of their office.*** (a) Board members who participate in the licensing examinations conducted by an approved testing agency shall be compensated by the testing agency. (b) A sitting Board member ***who observes a licensing examination,*** without actively participating in the examination, ***shall be compensated \$100 per day*** out of the Board funds. (c) Board members shall be compensated at a rate of \$100 per hour, not to exceed \$300 per day, for documented time spent in review of assigned cases while serving on an Investigative or a Complaint Review Team.”

**Significant Issue 2024-019:** Eight of twenty-four complaint files reviewed showed no evidence a resolution letter was sent from the Board with the Board’s decision about the complaint. One complaint file showed no evidence that a letter of receipt acknowledging the complaint was sent to the complainant.

According to *Administrative Rule* 270-X-5-.06 “The Board shall notify the person or persons whose complaint led to the Board’s decision to send a Letter of Concern.”

According to the Board’s complaints procedures on their website, the Board issues an initial receipt letter to the complainant confirming review of the complaint and if the case is closed, a letter of the Board’s decision is sent to both the complainant and the respondent.

## **SIGNIFICANT ISSUES FROM QUESTIONNAIRES**

**Significant Issue 2024-020:** Three of the seven (43%) Board members who responded to our survey expressed concerns about the Dental compact legislation. One member stated the Board is working on building legislation for 2025 to address the issue.

**Significant Issue 2024-021:** Five of the eighteen (28%) dentists responding to our survey consider the Board as the most significant issue facing their profession. The comments provided by respondents indicated a negative perception of some of the Board's practices. Additionally, eight of eighteen (44%) dentists responding to our survey consider insurance to be the most significant issue facing their profession. Some of the issues cited were insurance write-offs, reimbursements, and interference with treatment.

**Significant Issue 2024-022:** Eight of eighteen (44%) dentists and four of the ten (40%) dental hygienists responding to our survey think some of the Board's laws, rules, or policies are an unnecessary restriction on the practice of their professions.

**Significant Issue 2024-023:** Five of the eighteen (28%) dentists responding to our survey indicated they are not adequately informed by the Board of changes to and interpretations of the Board's positions, policies, rules, and laws.

**Significant Issue 2024-024:** Four of the ten (40%) dental hygienists responding to our survey consider low wages as the most significant issue facing their profession.

**Significant Issue 2024-025:** Twelve of thirty (40%) complainants responding to our survey indicated the Board did not communicate the results of its investigation into their complaint to them. Twenty-four complaint files were reviewed during the Sunset Review process. Eight of the twenty-four (33%) files showed no evidence a resolution letter was sent to the complainant with the Board's decision about their complaint. *See Significant Issue 2024-019.*

**Significant Issue 2024-026:** Twenty-two of thirty (73%) complainants responding to our survey do not think the Board did everything it could to resolve their complaint.

## **STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES**

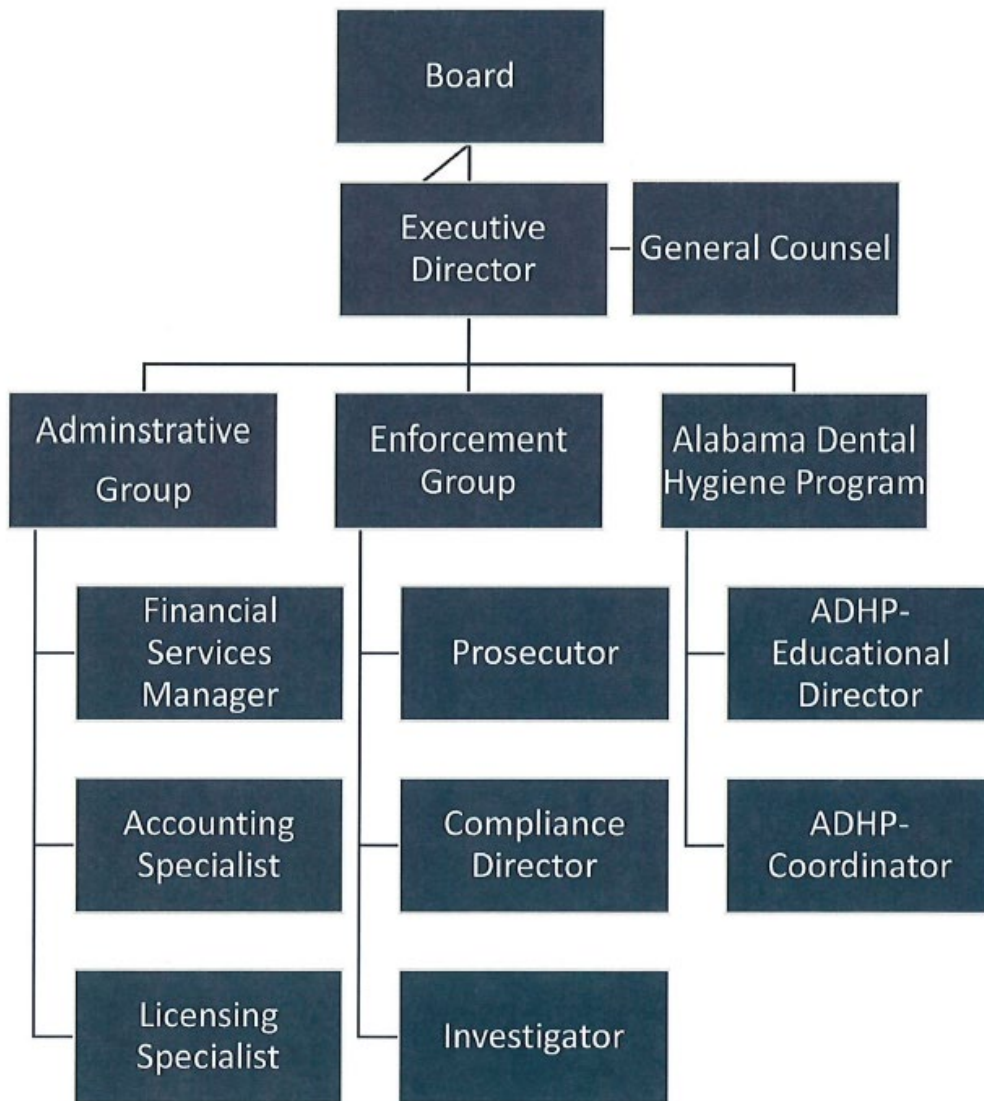
All prior findings/significant issues have been resolved except the following:

**Prior Significant Issue 2020-002:** Five of the six Board members responding to our survey stated that changes to the Board's laws are needed to allow tele-dentistry to expand access to dental care. In addition to the surrounding states of Florida, Georgia and Tennessee, there are nineteen other states that allow tele-dentistry.

### **Current Status:**

Three out of the seven (43%) board members expressed the need for updating the Dental Practice Act, including tele-dentistry, digital images and scans, the electronic record, and the modernizing of the practice of dentistry.

# ORGANIZATION



The Board's General Counsel and ADHP – Educational Director are not Board employees.  
**Source:** Executive Director

# PERSONNEL

## Employees

<b>Position</b>	<b>#</b>	<b>W/M</b>	<b>B/F</b>	<b>W/F</b>	<b>Salary</b>	<b>Vehicle Assigned</b>
Executive Director	1	1			\$136,620.43	1
Prosecutor	1			1	\$166,407.12	
Compliance Director	1	1			\$104,313.92	
Investigator	1	1			\$66,937.50	1
Financial Service Manager	1			1	\$92,204.74	
Accounting Specialist	1		1		\$59,782.20	
Licensing Specialist	1	1			\$55,692.00	
Alabama Dental Hygiene Program Coordinator	1			1	\$54,279.16	
<b>Total</b>	<b>8</b>	<b>4</b>	<b>1</b>	<b>3</b>		<b>2</b>

W/M=white male, B/F=black female, W/F=white female

## Legal Counsel

Dr. Donna Dixon, an employee of the Board, provides prosecution services for the Board.

The Board contracts with Aaron L. Dettling of Fortif Law Partners, LLC to serve as general counsel for the Board. The current contract is a two-year contract effective June 14, 2024. The pay rate is \$195.00 per hour, not to exceed \$300,000.00 during the contract period. The contract also includes reimbursement for actual reasonable expenses for travel, lodging, meals and other expenses reasonably incurred in the performance of its duties as General Counsel, not to exceed \$15,000.00 over the term of the contract. Total compensation for professional services and reimbursement for expenses over the duration of the contract shall not exceed \$315,000.00.

# **PERFORMANCE CHARACTERISTICS**

**Number of Licensees per Employee (FY2023) - 838**

**Number of Licensees for the Past Four Fiscal Years**

<b>Type of License</b>	<b>Fiscal Year</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Dentist	2,013	2,085	2,206	2,414
Dental Hygienist	3,469	3,646	3,901	4,273
Special Purpose			1	1
Military Spouse <sup>1</sup>				4*
Retired/Disabled <sup>2</sup>				13*
<b>Total</b>	<b>5,482</b>	<b>5,731</b>	<b>6,108</b>	<b>6,705</b>

\*As of March 22, 2024.

<sup>1</sup>New license category effective September 14, 2023.

<sup>2</sup>New license category effective November 13, 2023.

**Operating Disbursements per Licensee (FY2023) - \$330.10**

**Number of Permits per Employee (FY2023) - 363**

**Number of Permits for the Past Four Fiscal Years**

<b>Type of Permit</b>	<b>Fiscal Year</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Controlled Substance Permit	1,600	1,664	1,740	1,906
General Anesthesia Permit	125	144	157	186
Hygiene Infiltration Permit	150	197	277	449
Oral Conscious Sedation Permit	258	265	277	289
Parenteral Sedation Permit	32	36	38	43
Special Teaching Permit	10	11	13	15
Teaching Permit	3	4	6	11
Portable Unit Permit		2	64	5
Mobile Dental Facility		1	2	1
<b>Total</b>	<b>2,178</b>	<b>2,324</b>	<b>2,574</b>	<b>2,905</b>

**Operating Disbursements per Permit (FY2023) - \$761.90**

**Fines/Penalties as a Percentage of Operating Receipts**

	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
Fines	\$ 108,570.00	\$ 109,720.00	\$ 414,305.10	\$ 266,276.72
Total Receipts	\$ 1,779,812.38	\$ 2,041,975.98	\$ 2,470,808.29	\$ 2,817,601.39
<b>Percentage</b>	<b>6.10%</b>	<b>5.37%</b>	<b>16.77%</b>	<b>9.45%</b>

**Notification of Board Decisions to Amend Administrative Rules**

The Board complied with notification procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules. Licensees are not specifically notified of proposed changes. Proposed rule amendments are posted on the Board’s website.

**Inspections**

Facility Inspections: Performed for Oral Conscious Sedation, Parenteral Sedation, and General Anesthesia Permits. These inspections are used to ensure applicants have all the required equipment and personnel to safely provide sedation/anesthesia services.

- Oral Conscious Sedation: If the applicant passes, an OCS permit is issued. If the applicant fails, the permit is not issued.
- Parenteral Sedation/General Anesthesia: If the applicant passes, a temporary permit is issued that is valid for 90 days. If the applicant fails, no permit is issued.

Anesthesia Evaluations: Performed for Parenteral Sedation and General Anesthesia permits.

- Within the 90-day period of the temporary permit, the applicant must have an anesthesia evaluation. A team of 3 evaluators will review the Facility Inspection, then observe the applicant sedate a minimum of two patients.
- If the applicant passes, a full permit is issued. If the applicant fails, no permit is issued.

Portable Dental Units/Mobile Dental Facilities Inspections: A portable dental unit can be set up in a school, nursing home, etc. A mobile dental facility is a vehicle or a trailer containing a fully functional dental clinic.

- A board appointed inspector will conduct a full inspection of the portable unit/mobile facility to ensure required equipment and personnel are present.
- If approved, the applicant can utilize the portable unit/mobile facility statewide. If the applicant fails, the portable unit/mobile facility cannot be used.

Educational Site Evaluations: In order for educational institutions/resident programs to allow unlicensed dentists to practice on the general public, a site evaluation is conducted to ensure that the student/resident has access to all of the required equipment and will be appropriately supervised by an actively licensed Alabama dentist during their training.

- The Board inspects between 45-60 sites statewide on an annual basis, with University of Alabama – Birmingham (UAB) School of Dentistry being the largest applicant with at least 45 associated/host clinics participating with the dental school. These sites are required to be re-evaluated annually.
- If the site passes inspection, students/residents may practice at the site with a dentist providing direct supervision. If a site fails, students/residents are not allowed to practice at the site.

*Code of Alabama 1975*, Sections 34-9-6.1, 34-9-60, 34-9-63, and 34-9-86

*Administrative Rules* 270-X-2-.17, 270-X-2-.24, and 270-X-4-.09

*Source*: Executive Director

<b>Inspections of Parenteral Sedation and General Anesthesia</b>				
<b>Fiscal Years 2020 through 2023</b>				
	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Passed	134	30	27	64
Fail	1	2	1	
Denied by Board	2			
<b>Total</b>	<b>137</b>	<b>32</b>	<b>28</b>	<b>64</b>
<i>Source</i> : Executive Director				

<b>Inspections of Oral Conscious Sedation*</b>	
<b>Fiscal Year 2023</b>	
Passed	4
Fail	1
<b>Total</b>	<b>5</b>
<i>Source</i> : Executive Director	

\*Oral Conscious Sedation inspections began in 2023.

<b>Inspections of Portable Dental Units/Mobile Dental Facilities</b>				
<b>Fiscal Years 2020 through 2023</b>				
	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Passed	2	12	65	3
Fail				
<b>Total</b>	<b>2</b>	<b>12</b>	<b>65</b>	<b>3</b>
<i>Source</i> : Executive Director				

<b>Site Evaluations for Educational Institutions</b>				
<b>Fiscal Years 2020 through 2023</b>				
	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Passed	38	33	32	41
Fail		1	1	
<b>Total</b>	<b>38</b>	<b>34</b>	<b>33</b>	<b>41</b>
<i>Source</i> : Executive Director				

## **COMPLAINT HANDLING**

The Board's *Administrative Rule* 270-X-5-.06 states the Board shall investigate complaints of alleged violations of the provisions of the *Code of Alabama 1975*, Section 34-9-1 through 34-9-90, or of the drug or controlled substances laws by persons licensed pursuant to the provisions of the *Code of Alabama 1975*, Section 34-9-1 through 34-9-90, following the complaint policies approved by the Board and kept on file at the Board's offices and effective at the time the complaint is received.

<p><b>Initial Contact/ Documentation</b></p>	<p>Any person can file a complaint: consumers, licensees, Board members, and Board employees. A formal written complaint can be filed with the Board using an established complaint form provided by the Board, which is located on the Board's website.</p> <ul style="list-style-type: none"> <li>➤ A written complaint can be accepted for review by the Board only if (1) it is notarized; (2) it identifies a specific dental/dental hygiene practitioner; and (3) the issue being reported happened within the 4 years preceding the filing of the complaint.</li> </ul> <p>An oral complaint can be accepted for review by the Board only under very limited circumstances. Those circumstances include, but are not limited to:</p> <ul style="list-style-type: none"> <li>➤ The complaint is from a governmental agency, healthcare provider, regulatory board, educational institution responsible for teaching dentists/dental hygienists, or a reporting agency.</li> <li>➤ The complaint is made to the chair of the Alabama Dental Professionals Wellness Committee regarding a wellness/impairment issue of a practitioner. At minimum, the complainant must identify him/herself, provide contact information, and provide adequate detail before the complaint can be accepted.</li> </ul> <p>The Board issues a receipt letter to the complainant confirming review of the complaint.</p>
<p><b>Anonymous Complaints Accepted</b></p>	<p>No.</p>

<p><b>Investigative Process/ Probable Cause Determination</b></p>	<p>The Executive Director or their designee reviews complaint to confirm the complaint meets minimum requirements, including Board jurisdiction. If the complaint does not qualify, a letter of explanation will be sent to the complainant explaining that an investigation cannot be initiated.</p> <p>If the complaint is within the Board’s jurisdiction, the Executive Director, or their designee, identifies and assigns a Board member as Team Leader. If an active or former board member reports an adverse occurrence, the Team Leader shall assign the case to an outside expert to review. If the outside expert identifies a potential standard of care violation, the case will be forwarded to the Alabama Attorney General’s Office for investigation. If no standard of care issue is identified, the case will be disposed of by the Board</p> <p>A complaint alleging drug, alcohol, wellness (physical/mental), or a combination of these types of issues involving a dental/dental hygiene practitioner may include the chair of the Alabama Dental Professionals Wellness Committee as part of the investigation.</p> <p>The Team Leader presents the investigative findings to the full Board with a recommendation. The Team Leader is recused from voting.</p>
<p><b>Negotiated Settlements</b></p>	<p>Yes, negotiated settlements are accepted.</p>
<p><b>Notification of Resolution to the Complainant</b></p>	<p>Once a case is closed, the complainant and respondent should each receive a letter of the Board’s decision.</p>

*Source:* Board’s Complaint and Investigation Policy and Board Staff

**Complaint Data**

<p align="center"><b>Schedule of Complaints Resolved Fiscal Year 2020 through 2023</b></p>						
<p><b>Year/Number of Complaints Received</b></p>	<p align="center"><b>Year/Number Resolved</b></p>					<p><b>Pending</b></p>
	<p align="center"><b>2020</b></p>	<p align="center"><b>2021</b></p>	<p align="center"><b>2022</b></p>	<p align="center"><b>2023</b></p>	<p align="center"><b>2024*</b></p>	
<p>2020 / 81</p>	<p align="center">62</p>	<p align="center">14</p>	<p align="center">1</p>	<p align="center">2</p>	<p align="center">1</p>	<p align="center">1</p>
<p>2021 / 114</p>	<p align="center">61</p>	<p align="center">36</p>	<p align="center">81</p>	<p align="center">40</p>	<p align="center">2</p>	<p align="center">17</p>
<p>2022 / 125</p>	<p align="center">61</p>	<p align="center">36</p>	<p align="center">81</p>	<p align="center">40</p>	<p align="center">2</p>	<p align="center">2</p>
<p>2023 / 163</p>	<p align="center">61</p>	<p align="center">36</p>	<p align="center">81</p>	<p align="center">118</p>	<p align="center">39</p>	<p align="center">6</p>
<p>*As of March 28, 2024 <i>Source:</i> Executive Director</p>						

**Average Time to Resolve Complaints** - 92 business days.

Cases pending for more than one year are due to matters referred to the Attorney General’s Office, ongoing investigations, complaints with out-of-state respondents/complainants or respondents being criminally charged.

**Disposition of Resolved Complaints**

<b>Number of Complaints</b>	<b>Resolution</b>
214	No Evidence to Sustain
104	Consent Order
72	Administrative Fine (Non-Disciplinary)
30	No Action
12	Outside the Jurisdiction
11	Notice of Charges
4	Cease and Desist Letter
4	Voluntary Surrender
3	Final Order
1	Hearing
1	Reinstatement
1	Revoked

**REGULATION IN CONJUNCTION WITH OTHER ENTITIES**

**United States Drug Enforcement Agency** – Qualified dentists desiring to prescribe or dispense controlled substance must be certified by both the United States Drug Enforcement Agency and the Alabama Board of Dental Examiners.

**FINANCIAL INFORMATION**

**Source of Funds:** Licensing fees, fines, and penalties.

**Accounts:** The Board is required by the *Code of Alabama 1975*, Section 34-9-41, to deposit all funds into a bank selected by its members. The Board maintains two accounts with Synovus Bank in Birmingham, a checking account used for all operating receipts and disbursements and a money market account for funds not immediately needed for operations.

## Schedule of Fees

The *Code of Alabama 1975*, Section 34-9-16 states the Board shall establish and collect reasonable fees provided for in this chapter within the ranges set forth without having to engage in the rulemaking process.

<b>Fee Type/Purpose</b>	<b>Amount Authorized</b>	<b>Amount Collected</b>
Dental Licensure by Credentials Application Fee	≤ \$4,000.00	\$2,500.00
Dental Licensure by Regional Exam Application Fee	≤ \$1,000.00	\$700.00
Special Purpose Licensure Fee*	≤ \$750.00	\$450.00
Dental Annual Registration Fee	≤ \$500.00	\$350.00
Dental License Reinstatement Penalty	≤ \$500.00	\$250.00
Alabama Dental Hygiene Program Application Fee	≤ \$500.00	\$300.00
Alabama Dental Hygiene Program Training Permit Fee	≤ \$450.00	\$325.00
Alabama Dental Hygiene Program Training Education Fee	≤ \$600.00	\$500.00
Alabama Dental Hygiene Program Instructional Materials Fee	≤ \$950.00	\$450.00
Alabama Dental Hygiene Program Instructor Certification Course Fee	≤ \$200.00	\$75.00
Dental Hygiene By Regional Exam Application Fee	≤ \$500.00	\$350.00
Dental Hygiene Licensure by Credentials Fee	≤ \$2,000.00	\$1,400.00
Dental Hygiene Annual Registration Fee	≤ \$75.00	\$70.00
Dental Hygiene License Reinstatement Penalty	≤ \$200.00	\$100.00
Dental Hygiene Infiltration Anesthesia Permit Fee	≤ \$250.00	\$100.00
Dental Hygiene Infiltration Anesthesia Renewal Fee	≤ \$250.00	\$75.00
License Certificate Fee	≤ \$500.00	\$25.00
Duplicate or Replacement License (License Reprint) Fee	≤ \$150.00	\$25.00
Dental Faculty Teaching Permit Fee	≤ \$350.00	\$250.00
Dental Faculty Teaching Renewal Permit Fee	Not Stated in Statutes	\$250.00
Dental Faculty Special Teaching Permit Fee	≤ \$500.00	\$300.00
Dental Faculty Special Teaching Renewal Permit Fee	Not Stated in Statutes	\$300.00
Alabama Controlled Substance Permit Fee	≤ \$400.00	\$235.00
Alabama Controlled Substance Permit Renewal Fee	≤ \$400.00	\$160.00
General Anesthesia Permit Fee	≤ \$1,500.00	\$1,350.00
Oral Conscious Sedation Permit Fee	≤ \$250.00	\$200.00
Oral Conscious Sedation Permit Renewal Fee	≤ \$250.00	\$100.00

<b>Fee Type/Purpose</b>	<b>Amount Authorized</b>	<b>Amount Collected</b>
General Anesthesia Permit Renewal Fee	≤ \$750.00	\$300.00
Parenteral Sedation Permit Fee	≤ \$1,500.00	\$1,350.00
Parenteral Sedation Permit Renewal Fee	≤ \$750.00	\$300.00
Mobile Dental Facility/Portable Dental Operation Application for Certificate of Registration Fee	≤ \$750.00	\$750.00
Mobile Dental Facility/Portable Dental Operation Renewal of Certificate of Registration Fee	≤ \$500.00	\$500.00
Alabama Impaired Dental Professionals Committee Annual Monitoring Fee	≤ \$2,000.00	\$1,000.00
Military Spouse ( <i>Administrative Rule</i> 270-X-4-.11(4))	Not Stated in Statutes	\$50.00
Public Records Request Fee	Cost Recovery	\$20-\$100
Insufficient Funds ( <i>Code of Alabama 1975</i> , Section 8-8-15)	\$30.00	\$30.00
Cost of Supplying Mailings	Cost Recovery	\$25.00
Reimbursement for Mailing Directories	Cost Recovery	\$7.00
Copy of Drug Inventory/ Dispensing Log	Cost Recovery	\$7.00
Copy of Records ( <i>Administrative Rule</i> 270-X-5-.07)	Cost Recovery	\$0.50 per page for over 20 pages
Non-Disciplinary Fines ( <i>Administrative Rule</i> 270-X-5-.09(2))	Not Stated in Statutes	Dentist up to \$500.00 Auxiliary up to \$250.00**

\* This license is not renewed; licensees have to submit a new application each year.

\*\*This fee is considered non-disciplinary and the fine is no longer charged effective June 14, 2024.

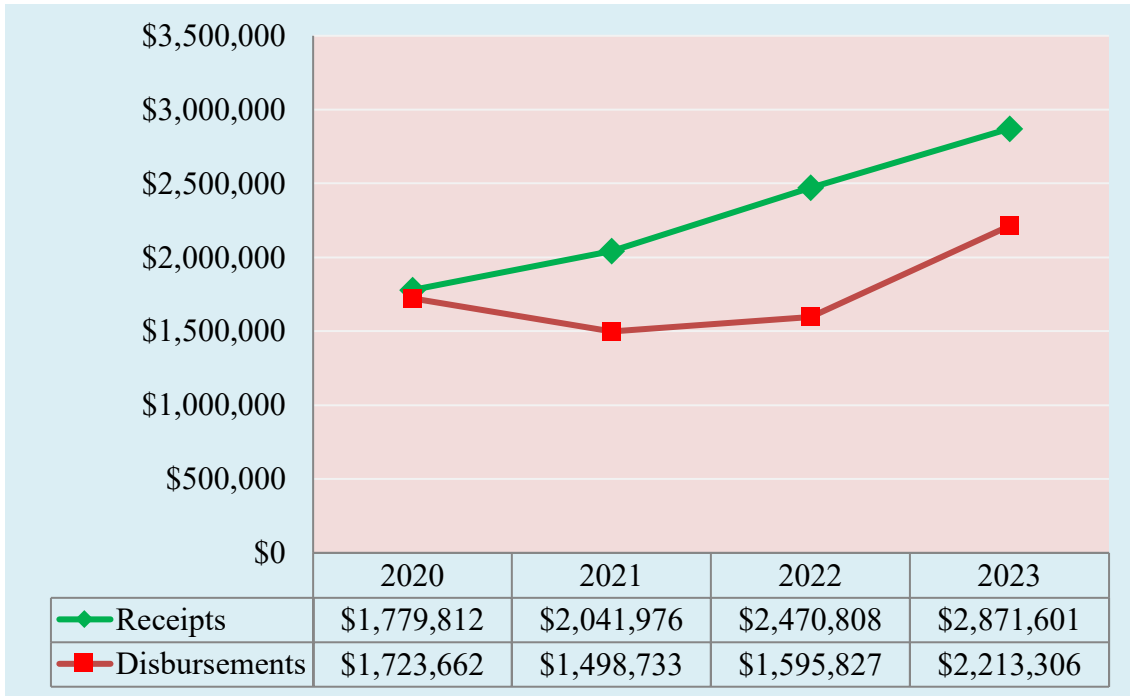
## Schedule of Receipts, Disbursements and Balances

October 1, 2019 through September 30, 2023

	<u>2019-2020</u>	<u>2020-2021</u>	<u>2021-2022</u>	<u>2022-2023</u>
<b><u>Receipts</u></b>				
Licensing Fees	\$ 1,437,727.00	\$ 1,586,339.00	\$ 1,570,492.00	\$ 2,070,818.30
ADHP Fees	214,710.10	343,524.25	445,028.70	464,055.00
Fines and Penalties	108,570.00	109,720.00	414,305.10	266,276.72
Interest Income	78.50	78.31	78.32	88.94
Other Income	16,471.78	1,269.42	40,664.17	14,002.43
Bad Check Fee	2,255.00	1,045.00	240.00	2,360.00
Total	<u>1,779,812.38</u>	<u>2,041,975.98</u>	<u>2,470,808.29</u>	<u>2,817,601.39</u>
<b><u>Disbursements</u></b>				
Personnel Costs	781,696.65	773,517.01	752,934.50	873,232.90
Employee Benefits	194,716.58	202,534.52	196,409.89	236,438.27
Travel, In-State	7,883.78	10,028.65	21,234.73	27,859.17
Travel, Out-of-State	14,690.90	555.00	3,424.74	15,181.86
Repairs and Maintenance	17,046.95	34,233.45	41,532.19	195,094.18
Rentals and Leases	20,740.26	12,347.78	45,188.22	88,438.83
Utilities and Communications	24,888.80	23,864.17	26,197.07	35,555.11
Professional Services	287,404.25	360,310.21	333,956.66	446,026.02
Supplies, Materials, and Operating Expenses	278,990.38	31,146.77	120,052.46	146,208.12
Transportation Equipment Operations	7,268.19	7,656.41	15,849.82	14,900.61
Other Equipment Purchases	82,064.24	29,319.16	39,047.01	120,374.00
Miscellaneous	6,270.63	13,219.54	-	13,996.79
Total	<u>1,723,661.61</u>	<u>1,498,732.67</u>	<u>1,595,827.29</u>	<u>2,213,305.86</u>
Excess (Deficiency) of Receipts over Disbursements	56,150.77	543,243.31	874,981.00	604,295.53
Cash Balances at Beginning of Year*	<u>1,685,785.54</u>	<u>1,741,936.31</u>	<u>2,285,179.62</u>	<u>3,160,160.62</u>
Cash Balances at End of Year*	<u>\$ 1,741,936.31</u>	<u>\$ 2,285,179.62</u>	<u>\$ 3,160,160.62</u>	<u>\$ 3,764,456.15</u>

\* Balances include totals from the Board of Dental Examiners Money Market Account.

## Operating Receipts vs. Operating Disbursements

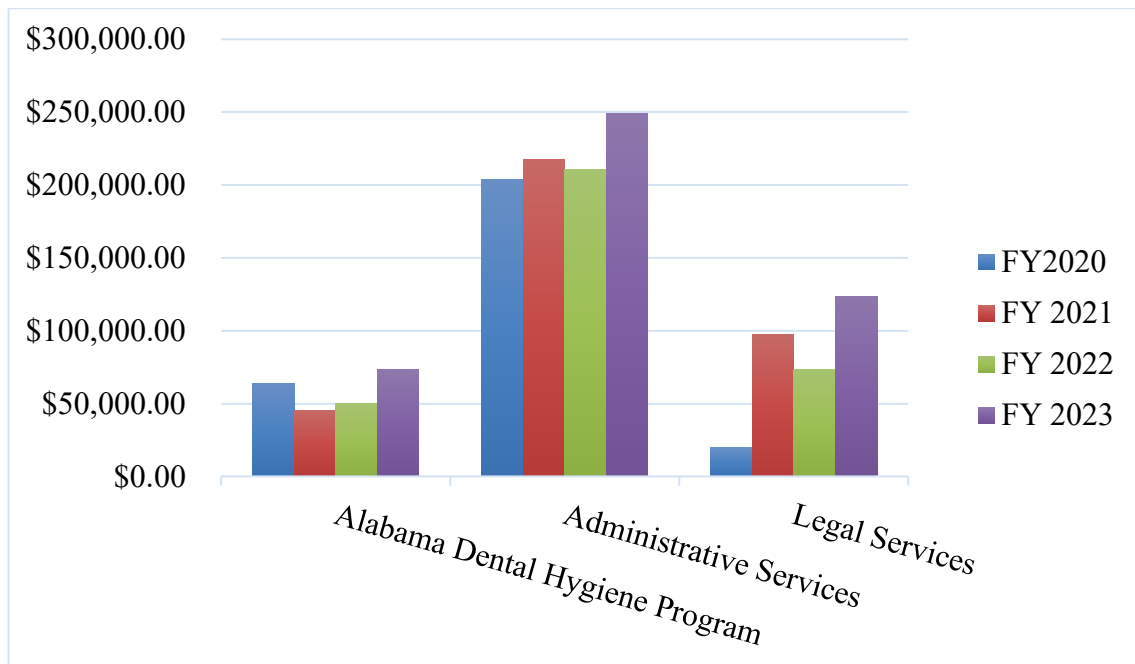


**Summary Schedule of Professional Services Disbursements\***

As of September 30th				
Type of Service	FY 2020	FY 2021	FY 2022	FY 2023
Alabama Dental Hygiene Program (ADHP)	\$63,731.60	\$45,360.39	\$49,856.10	\$73,086.93
Administrative Services	203,898.07	217,470.29	210,662.89	249,235.87
Legal Services	19,774.58	97,479.53	73,437.67	123,703.22
<b>Total</b>	<b>\$287,404.25</b>	<b>\$360,310.21</b>	<b>\$333,956.66</b>	<b>\$446,026.02</b>

\*Detailed information presented in the Appendix III of this report.

**Professional Services Disbursements Chart**



# QUESTIONNAIRES

## Board Member Questionnaire

A letter was sent to all seven members of the Board of Dental Examiners requesting participation in our survey. Seven participated in our survey. The percentages are based on the number who responded to the question.

### **1. What do you consider the most significant issue(s) facing the Dental Examiners Board and how is the Board addressing these issues?**

**Board Member #1** – “Compacts”

**Board Member #2** – “Updating the Dental Practice Act to keep up with the technological advances in dentistry. These include the electronic record, digital scans and images, anesthesia, teledentistry, and the composition of the modern dental office.”

**Board Member #3** – “Although I’m only 1/2 through my first year, I feel the DPA needs updating in several areas. At the past 2 meeting we have discussed items such as more clearly defining the scope of practice related to this topic.”

**Board Member #4** – “Adverse occurrences. The Board is seeing a greater number of patient driven complaints this year over last year. The Board is addressing these complaints via Town Hall meetings....going to where the dentists are and explaining the increase. The Board is diligently trying to increase outreach to the dental providers to increase awareness.”

**Board Member #5** – “The Governor wanting to move the money from the dental board to the general fund and taking away our check book agency status. Our Statues state that we are to remain in control of our finances. We follow the state guidelines for our finance expenditures. The other big issue is the Dental and Dental Hygiene Compacts. The Board is working on building legislation for 2025 to address this issue.”

**Board Member #6** – “I believe the dissemination of information to our licensees can sometimes be a concern. The more knowledgeable they are the better for everyone. To help with this concern we have increased the number of times an email has been sent on all topics. We have also began having town hall meetings to pass along information and to answer any questions that licensees may have.”

**Board Member #7** – “The Dental Compacts legislation that are being introduced to states legislatures. This Board has proactively addressed these issues either by statutes or by Board rules.”

### **2. What, if any, changes to the Board’s laws are needed?**

**Board Member #1** – “Continuing updates to consider changes in modern Dentistry. Electronic medical records and Dental Service Organizations”

**Board Member #2** – “Updating the language of the Dental Practice Act and including teledentistry, digital images and scans, the electronic record, and the modernizing of the practice of dentistry.”

**Board Member #3** – “I have seen that we as a board try to constantly review, improve, clarify, and announce board rules and regulations in my short tenure. As I get more information and insight in the future, I will be better equipped to answer this question and look forward to working with the other members in such capacity.”

**Board Member #4** – “If there are adverse occurrences within the dental office, gross negligence involving patient care, there should be a mechanism to suspend a dental practitioners license until corrective measures can be taken.”

**Board Member #5** – “Just to update our Practice act.”

**Board Member #6** – “We need changes to promote the Board's relationship to the dental assistant.”

**Board Member #7** – “When a dental complaint is filed and the licensee is employed by a DSO (i.e. a dental corporation), many times the Board does not know who the supervisor of the licensee was. Sometimes the licensee will be fined, when in fact it was the supervisor or the owner of the DSO that was culpable. The stature states that the practicing licensee is wholly responsible for the treatment and welfare of the patient. Somehow DSO principal owners are immune from any malfeasance concerning the treatment and outcomes. We, the Board, have the mandate to protect the innocent citizens of the State of Alabama seeking dental care.”

**3. Do you think the Board is adequately funded?**

<b>Yes</b>	<b>7</b>	<b>100%</b>
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**4. Do you think the Board is adequately staffed?**

<b>Yes</b>	<b>6</b>	<b>86%</b>
<b>No</b>	<b>1</b>	<b>14%</b>

**5. Does the Board receive regular reports on the operations from the Executive Director?**

<b>Yes</b>	<b>7</b>	<b>100%</b>
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**6. Has the Board experienced any significant changes to its operations?**

<b>No</b>	<b>7</b>	<b>100%</b>
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**7. Does the Board plan to make any significant changes in its operations?**

<b>No</b>	<b>5</b>	<b>72%</b>
<b>Unknown</b>	<b>1</b>	<b>14%</b>
<b>No Opinion</b>	<b>1</b>	<b>14%</b>

**8. Do you have any additional comments you would like to make?**

**Board Member #1** – “Board needs to become a facilitator of education that is vital for patient safety in anesthesia”

**Board Member #2** – “The Board of Dental Examiners of Alabama is charged with the protection of the public by protecting patients treated daily in dental practices across Alabama. Our Board is doing an outstanding job in this matter by regulating and licensing practitioners ensuring that the public is safe and protected.”

**Board Member #3** – “I have very much enjoyed my first 5 months serving on the board and learned a lot about its operations and daily function from everyone involved. I am very pleased that our board members are meeting in an open town hall forum twice a year to get feedback from our licensed professionals and organized dental associations in an effort to learn from their perspective. I look forward to bringing my insight, opinions, and energy to the board in an effort to fulfill my duties and serve well for the rest of my term.”

**Board Member #4** – “The Board members and staff are passionate in their mission to protect the citizens of Alabama. We strive daily to achieve this goal.”

**Board Member #5** – “The Board does everything in its power to carry out our regulatory duties in a most efficient manner. It is an honor to work with the Board and has been a learning experience. Every member strives to be the best at what ever endeavor they encounter.”

**Board Member #6** – “I have no additional comments.”

**Board Member #7** – “1) The issue of access of care. The dental school has increased their class size in recent years. As more people seek dental care, more patients are being referred to specialists. There is a considerable waiting time that patients need to be seen by the specialists. This leads to increased health costs because the referred patients will seek the Emergency Department in the hospital, only to be referred back to the dentist. If the undergraduate dental classes are increased the specialty residency programs need to be increased proportionally. 2) We are seeing recent dental graduates not understanding the term "standard of care". For example, the Board hears comments from the recent graduates that they can practice dentistry according to how they feel. I believe this stems from the dental schools being understaffed and the quality of the dental school curriculum is not as rigorous as in prior years.”

## Dental Licensee Questionnaire

A letter was sent to one hundred dental licensees requesting participation in our survey. Eighteen participated in the survey. The percentages are based on the number who responded to the question.

### 1. What do you consider the most significant issue(s) facing your profession in Alabama?

**Respondent #1** – “BCBS write offs.”

**Respondent #2** – “Lack of patient education.”

**Respondent #3** - "-Blue Cross / Blue Shield of Alabama monopolizing the dental insurance market -BCBS of Alabama not allowing "assignment of benefit" to non-participating dental offices -The rapid increase of dental "DSO" offices, which have a reputation among dentists of putting profit over patients and pressuring employees to work faster/see more patients, which compromises quality.”

**Respondent #4** – “Insurance reimbursement and insurance interference in treatment of our patients.”

**Respondent #5** – “Insurance fees are way too low.”

**Respondent #6** – “Insurances dictating how care is performed and this compromises the ability of the dentist to provide better care. On top of that, the Board of Dental Examiners holds dentists accountable to a standard that is difficult to achieve and still operate a business that doesn't lose money. As insurances squeeze the fees lower and are never raised no matter the inflation, dentist find it hard to hire staff that can do a great job. As a dentist, my kids will go to pediatric dentist's whose staff can't take a decent x ray and I understand why. They can't find people who will do a good job for the salary they can afford to pay.”

**Respondent #7** – “-Corporate dentistry overtaking private practice options

-access to care for patients -career opportunities throughout the state for dentists who do not wish to practice in a traditional clinical setting that they may or may not own -too many CE requirements being needed in person when they could be completed online and not interrupt patient care.”

**Respondent #8** – “Insurance control.”

**Respondent #9** – “Complete access to care for all Alabama residents.”

**Respondent #10** – “Over supply of dentists in metropolitan areas.”

**Respondent #11** – “Inclusion of MEDICARE.”

**Respondent #12** – “Insurance reimbursement.”

**Respondent #13** – “The “dental IQ” of the average patient in Alabama - at least where I practice - appears to be significantly lower than in other populations.”

**Respondent #14** – “The dysfunctional and unprincipled activity of the Board of Dental Examiners of Alabama.”

**Respondent #15** – “A Dental Board who is unfair, vindictive, over burdening, implementing unnecessary rules and regulations harmful to the profession and the public.”

**Respondent #16** – “A board over stepping their authority.”

**Respondent #17** – “The hateful board of dental examiners that are convicting dentists at a higher rate than any other state in the nation.”

**Respondent #18** – "Hateful and convictive board Fear of the board and it's unfair prosecution A board widening their control and authority Implementing rules and laws to restrict our businesses Convictive and unfair prosecuting attorney and the associated hearing officer who constantly cooperate to deny the accused due process.”

**2. Do you think regulation of your profession by the Board of Dental Examiners is necessary to protect the public's welfare?**

<b>Yes</b>	<b>14</b>	<b>78%</b>
No	8	22%

**3. Do you think any of the Board's laws, rules, or policies are an unnecessary restriction on the practice of your profession?**

Yes	8	44%
<b>No</b>	<b>9</b>	<b>50%</b>
Unknown	1	6%

**4. Are you adequately informed by the Board of changes to and interpretations of the Board positions, policies, rules, and laws?**

<b>Yes</b>	<b>12</b>	<b>66%</b>
No	5	28%
Unknown	1	6%

**5. Do you consider mandatory continuing education necessary for the competent practice of your profession?**

<b>Yes</b>	<b>14</b>	<b>78%</b>
No	4	22%

**6. Does the Board respond to your inquiries in a timely manner?**

<b>Yes</b>	<b>11</b>	<b>61%</b>
No	2	11%
Unknown	5	28%

**7. Has the Board performed your licensing and renewal in a timely manner?**

<b>Yes</b>	<b>18</b>	<b>100%</b>
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**8. Do you have any additional comments you would like to make?**

**Respondent #1** – “Don't care for the CE website program method of keeping up with CE”

**Respondent #2** – “No”

**Respondent #3** – “not at this time”

**Respondent #4** – “I recently paid a fine of several hundred dollars that was related to an audit I received for CE credits. I had completed the credits needed, but did not submit one item that I had no idea I needed to send. The language of the audit email I received was confusing, and I feel I would have needed an attorney to understand fully what was being asked of me. I am a good, upstanding dentist that really loves my job, but am not an attorney. It seems that it should not be a priority of the Board to try and catch Alabama dentists in a technicality and then require them to pay such a stiff fine. If the intent of the audit is to make sure dentists are keeping up with our training (which I fully believe we should be), it should not feel like we are being tricked and then given no recourse for the situation. Thank you”

**Respondent #5** – “My experiences with the dental boards of Alabama and Missouri have been minuscule but positive. I expect it'll remain so.”

**Respondent #6** – “There is zero oversight on the board. As dentist, we hear about actions the board takes that are sometimes inconsistent or flat out wrong. There is no way to correct it. Also, it is encouraging some dentists to practice in a way that is inconsistent with proper practice. For example, one story I heard was the board charging a dentist for not administering midazolam to a patient who was having a seizure. Though this is the correct treatment for status epilepticus, it is not the correct treatment for a seizure that does not meet the criteria for status epilepticus (SE is defined as a continuous seizure lasting more than 30 min, or two or more seizures without full recovery of consciousness between any of them.) I also think it would be helpful for the board to publish incidents without names and details on a regular basis. That way other dentists could learn from the mistakes or adverse events that do occasionally happen.”

**Respondent #7** – “No”

**Respondent #8** – “No”

**Respondent #9** – “None”

**Respondent #10** – “None”

**Respondent #11** – “Include in the provision of care to focus on the elderly and nursing homes. Not sure how the board can influence this but it is a concern and the need is growing.”

**Respondent #12** – “I appreciate the service that my fellow dentist perform on the Alabama Board of Dental Examiners.”

**Respondent #13** – “None at this time.”

**Respondent #14** – “Having been licensed in another state for 25 years and serving in various capacities with that state's dental board, I have been appalled with how this dental board functions. With little to no oversight, this board is tremendously insular and lacks diversity in representation. This results in activity that is uninformed, biased, threatening, intimidating and generally unfair. Targeting dentists with baseless claims and accusations with limited options for resolution results in practicing in fear. This is unsustainable and potentially dangerous to the public. This board requires greater oversight and involvement with the State Attorney General's Office. As it exists currently, BDEAL violates the American Dental Association's Code of Ethics in the areas of beneficence, nonmaleficence and justice. These ethical violations threaten dentists and our ability to practice in a manner that protects the safety and well-being of our patients. Due to recent overreach by BDEAL, it also threatens dental and dental residency training programs.”

**Respondent #15** – “A vague definition of Negligence is leading to unfair convictions. Dentists very afraid to speak out and scared defend themselves once charged and afraid to rock the boat.”

**Respondent #16** – “According to an article i read, hundreds of dentists have been convicted in the past two years. It seems impossible to not be convicted by the board at some point soon. They do not seem to have the long term dental industry in mind.”

**Respondent #17** – “The prosecuting attorney is overzealous, unfair and usurps the due process rights of the accused.”

**Respondent #18** – “The board has passed legislation to deny us due process upon judicial review/appeal of boards unfair convictions.

The Board in 2025 plans to license approximately 10,000 dental assistants in the state which will restrict our practices by losing a lot of our employees who may not qualify for the strict requirements that will be imposed by the Board. Many young citizens will lose their jobs and we would not be able to see our normal number of patients thus denying access to care to a portion of Alabamians.”

## Dental Hygienist Licensee Questionnaire

A letter was sent to one hundred licensees requesting participation in our survey. Ten participated in the survey. The percentages are based on the number who responded to the question.

### **1. What do you consider the most significant issue(s) facing your profession in Alabama?**

**Respondent #1** – “Maintaining a competent staff.”

**Respondent #2** – “Low hygiene wages.”

**Respondent #3** – “Low pay due to preceptor program.”

**Respondent #4** – “Not having formal training for dental hygienists. Not having general supervision for dental hygienists.”

**Respondent #5** – “Pay and hygienist not being able to work independently.”

**Respondent #6** – “Not being enough practicing dentists.”

**Respondent #7** – “Salary.”

**Respondent #8** – “Patients not taking their regular dental hygiene seriously. No show appointments and cancellations.”

**Respondent #9** – “1. The ADHP program only offers a certificate. Enforce the Commission on Dental Accreditation for this program. Get it together and offer degrees please! ADHP can't cross state lines to obtain licensure from other states. Also, provide some form of disclosure informing that those hygienists are ONLY licensed in the state of Alabama. 2. Why does this state require license renewal every year instead of every two years? 3. Don't discuss block anesthesia if a hygienist is only allowed to give infiltration. Now that is putting a patient at risk! Why discuss it if you're not going to provide training. It's time out for the fluff! 4. Human trafficking should be one of the required continuing education upon renewal of licensure, which we know that human trafficking happens in the state of Alabama. And dental professionals should be aware of the signs if they come in contact with these individuals. Maybe we save lives!”

**Respondent #10** – “None.”

### **2. Do you think regulation of your profession by the Board of Dental Examiners is necessary to protect the public's welfare?**

Yes	10	100%
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### **3. Do you think any of the Board's laws, rules, or policies are an unnecessary restriction on the practice of your profession?**

Yes	4	40%
No	6	60%

### **4. Are you adequately informed by the Board of changes to and interpretations of the Board's positions, policies, rules, and laws?**

Yes	9	90%
No	1	10%

**5. Do you consider mandatory continuing education necessary for the competent practice of your profession?**

<b>Yes</b>	<b>9</b>	<b>90%</b>
No	1	10%

**6. Does the Board respond to your inquiries in a timely manner?**

<b>Yes</b>	<b>6</b>	<b>60%</b>
No	1	10%
Unknown	3	30%

**7. Has the Board performed your licensing and renewal in a timely manner?**

<b>Yes</b>	<b>10</b>	<b>100%</b>
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**8. Do you have any additional comments you would like to make?**

**Respondent #1** – “None”

**Respondent #2** – “N/A”

**Respondent #3** – “Concerning CE. Live CE only puts money into the pockets of the speakers. Since the AL Board has moved the annual meeting out of state, this makes it even harder and more costly for participants. If CE is required, live online webinars should suffice.”

**Respondent #4** – “With a decline in the amount of dentists in rural communities in Alabama, expanding the dental hygiene scope of practice to general supervision is in the best interest of the public to provide access to care.”

**Respondent #5** – “No”

**Respondent #6** – “None”

**Respondent #7** – “No”

**Respondent #8** – “No I do not.”

**Respondent #9** – “Whoever idea this was to create this survey, at least is shows some form of improvement. I just wonder, how far it will go! Please show some growth!”

**Respondent #10** – “It would be best if there’s a chance for hygienists to practice in other States even if there’s additional few classes to take”

## Complainant Questionnaire

A letter was sent to one hundred complainants requesting participation in our survey. Thirty participated in the survey. The percentages are based on the number who responded to the question.

### 1. Was receipt of your complaint acknowledged by the Board?

<b>Yes</b>	<b>24</b>	<b>80%</b>
No	3	10%
Unknown	3	10%

### 2. Approximately how long after filing your complaint did the Board contact you?

Within 15 days	5	17%
Within 30 days	8	26%
Within 60 days	2	7%
More than 60 days	5	17%
<b>Unknown</b>	<b>10</b>	<b>33%</b>

### 3. Did the Board communicate the results of its investigation into your complaint to you?

<b>Yes</b>	<b>17</b>	<b>57%</b>
No	12	40%
Unknown	1	3%

### 4. Do you think the Board did everything it could to resolve your complaint?

Yes	3	10%
<b>No</b>	<b>22</b>	<b>73%</b>
Unknown	5	17%

### 5. Do you have any additional comments you would like to make?

**Respondent #1** – “yes I have no idea of the results far as I no you swept it under the rug.”

**Respondent #2** – “Standards and Laws should be upheld and were clearly not. I Spent MUCH MONEY to repair and replace FAULTY Work done on my teeth by ██████████ in Foley, Al. I was EXTREMELY DISPLEASED!!!! Please feel free to contact me if you have any questions and Documentation (pictures, as well.)”

**Respondent #3** – “I would like to know the outcome of the complaint.”

**Respondent #4** – “They didn’t do anything for me, I provided all documents to explain the complain but their answer was not enough evidence... They did bad job, they side with the dentist doesn’t matter if he is right or wrong

██████████ ”

**Respondent #5** – “The dentist in question wrote me a letter, apologized and refunded my money that was overcharged.”

**Respondent #6** – "To Who It May Concern,

I am writing in response to your request for feedback on the handling of my complaint by the Alabama Board of Dental Examiners. Unfortunately, my experience compels me to express my profound dissatisfaction with the outcome of my complaint against [REDACTED].

It is disheartening to realize that in a profession as esteemed as dentistry, individuals can evade accountability for actions that gravely endanger others, including an incident as serious as shooting at someone. Such an expectation of accountability should be universal, transcending all professional fields, regardless of their perceived hierarchy.

This experience has significantly tainted my perception of the Alabama Board of Dental Examiners, instilling a sense of distrust and concern for the safety and well-being of fellow Alabamians who might find themselves in similar distressing circumstances. It is alarming to consider that others may suffer similar or worse without the prospect of adequate intervention or resolution from the bodies entrusted to uphold professional standards and public safety.

In light of these concerns, I earnestly hope that the Alabama Department of Examiners of Public Accounts, through its operational review, will address these critical issues more effectively than what I have endured. It is crucial that there be a meaningful follow-up that ensures accountability and upholds the highest standards of professional conduct and public safety.

Thank you for the opportunity to provide my feedback. I hope it contributes to meaningful improvements in the oversight and resolution processes concerning professional conduct within the state of Alabama."

**Respondent #7** – "Yeah, I think like most of everything the state does it swept it under the table."

**Respondent #8** – "I issued my complaint immediately before Covid. I contacted the Dental Board representative but was always told the decision was "pending". After 14 months, the representative stopped taking my calls and stopped answering my emails. I was never informed about the resolution of my case. I feel the AL Board of Dental examiners was very unprofessional in how they handled my case."

**Respondent #9** – "The board did contact the dentist and the dentist did not complete my work efficiently. The board should make sure that work is completed timely and right. The board should have asked for proof from the dentist that the work was not only completed but done to a certain standard. I'm having issues with my dental work because the dentist did not care he just wanted to get me out of his hair."

**Respondent #10** – "The decision to my complaint was biased. The Dentist/Dental Group of my complaint was on the Alabama Dental Board, even so President of such. The result of my complaint was not acceptable nor fair. I left no possible reason to find Dentist/Dental Group guilty of my complaint with detailed, dated documentation. The Dentist/Dental Group was involved and found guilty of several illegal issues both past and current at the time of my complaint. Alabama Dental Board needs to be investigated for treating complaints with biased decisions."

**Respondent #11** – "It took seven months for them to "review" my complaint and then I received a letter by mail letting me know there was no basis for investigation. I feel like I should have gotten a phone call asking more questions or that they should have at least contacted the dentist I complained about for questioning but I'm not sure that was ever done."

**Respondent #12** – "Board advised me in Nov. 2023 they would let me know when a hearing date was set. They were already booked at least 6 months ahead."

**Respondent #13** – "No"

**Respondent #14** – “I felt the charges were legitimate enough to result in discipline action, but the case was dismissed. Since then, others in the community have also voiced concerns regarding this same Dentist, yet none want to file complaints because they think it's "too difficult" and "nothing will be done." The Dentist in question only increased his advertising and efforts to lure new patients to his practice. He's giving the Dental industry a bad name. And people are correct, "nothing will be done."

**Respondent #15** – “Two dentists and two dental surgeons told me [REDACTED] positioned my implant incorrectly. I saw the x-rays and paid in excess of an extra \$5,000 to correct his work, in addition to the \$1,700 I paid him. The Board found nothing wrong with that. I fail to see how any of the professionals involved exercised integrity in the way my situation was handled. I am grateful that I serve a just God who restores lost to His own and hopefully brings indifferent individuals to repentance.”

**Respondent #16** – “To be honest, the decision letter closing our complaint on behalf of our then 10 year old daughter was shocking but then wasn't because we knew the dentist was held in high regard. I know this dentist to treat many of our friend's children who speak highly of him. What bothers us is that what he said to our daughter was wrong, cruel, and still resonates. We used to pass his office daily and still two years later, it would sometimes elicit a sour memory for her and she would comment about it as we drove by. We are all human and make mistakes but he went to a place that was shocking. I chose not to push things further with the case because it would keep what happened present for our daughter and more than likely he won't let it happen again. I don't expect a follow up but I am just using this opportunity to express my feelings. [REDACTED]”

**Respondent #17** – “Filed my complaint and never received a response.”

**Respondent #18** – “Refusing for many months to send me my records, until they were contacted by the Board to do so, would seem to me to be a clear violation of standards. The doctor lying to me as to insurance pre authorization would seem, to me, to be an extremely serious situation, as well. At the end of it all, I do not know that the doctor was held accountable for these things. Hence, my answer of “unknown” to the above question.”

**Respondent #19** – “Although the complaint was resolved, I did not receive the information timely. I believe this was because of a Personnel change ([REDACTED]).”

**Respondent #20** – “I was not notified that my complaint had been resolved. In October, 2023, I called to find out the status of my claim. I was told that the case had been resolved in July, however, no one had let me know that.”

**Respondent #21** – “I am [REDACTED], a registered dental hygienist of nearly 27 years seeking assistance in getting a response from the Alabama Board of Dental Examiners on unfair applications of penalties in a clear case of retaliation.

[REDACTED] hired me in May 2018 to practice at [REDACTED] and [REDACTED] correctional facilities. [REDACTED] was the State Dental Director and my immediate supervising dentist at the [REDACTED] location. [REDACTED] did not require examinations of dental hygiene patients across the state, nor did he examine my patients, even at my request. In addition, he stated, "Things are different in the prison system," "Dentists do not have to examine prophylaxis (cleanings) patients. I believed him because 1. He was the State Dental Director 2. He was my direct supervisor with years of experience in the correctional environment and never previously examined dental hygiene patients, and 3. The President, [REDACTED], DMD, and Vice President [REDACTED] [REDACTED], DMD, of the Alabama Board of Dental Examiners followed the same instruction under Dr. [REDACTED]'s leadership at other Alabama state prisons.

Though this is not in keeping with the Dental Practice Act, it was standard practice in the correctional setting years before my employment without previous concern by him or the board members.

[REDACTED] Health terminated Dr. [REDACTED]'s employment in February 2020 for intolerable behavior. Dr. [REDACTED] targeted me as the reason for his termination. In November of 2021, he filed a complaint against me to the Board of Dental Examiners with mostly false accusations. However, the Board did find me guilty of one count: I did not have the dentist examine my patients before, during, or after treatment. I did not deny following Dr. [REDACTED] directive. Please know that he or any attending dentist was only a few feet away from me while treating a patient. We worked in a small, open room with everything in plain view. He could see and hear all interactions.

As a result of his complaint, I and three supervising dentists were all subject to discipline. In addition, I signed a consent order, and to my knowledge, they also did. The penalty was an irreparable mark on all our licenses and thousands of dollars in fines.

I asked the Board why Dr. [REDACTED] was not penalized for the same neglectful behavior because he was also my supervising dentist who failed to follow the rules. The Dental Board responded, "There was no complaint against him." So, in November 2022, I filed a complaint against Dr. [REDACTED]. I received notification from the Board on 4/11/23 stating that sufficient evidence did not exist to support a violation. If this were true, they would have lacked enough evidence to find me or anyone else guilty of wrongdoing.

An investigator never contacted me to defend myself, confirm Dr. [REDACTED]'s actions, or inquire about the many witnesses who observed all.

I've made several attempts to have someone on the Board explain how they came to this conclusion but only received a vague response that did not answer my question. In addition, I've recently been informed of a proposed amendment to the Dental Practice Act, allowing what I was punished for to be now acceptable.

The Board's lack of review and investigation enabled Dr. [REDACTED]'s retaliation. However, the hefty penalties warrant an explanation. I would greatly appreciate a response or recommendation on obtaining better clarification as to why this was permitted. I will gladly send any additional information you may want or need for review.

Sincerely,

[REDACTED]

**Respondent #22** – “The following email statement which you sent to me is totally inaccurate and untrue. This board did absolutely nothing to resolve my complaint.

“Records indicate that the Board resolved the complaint that you filed within the past two years. This form does not allow enough space to provide you a complete response.

I initially went to [REDACTED] in the fall of 2021 as my dentist for approximately 30 years had made a bridge for me utilizing several remnants of teeth in my upper mouth plus a sound number eleven tooth. The bridge came dislodged either three or four times and I decided to seek another dentist. I was very unfortunate to connect with [REDACTED] in Madison Alabama. She did an initial exam to include a total panoramic imaging of my entire mouth and informed me that she could fabricate a bridge utilizing my existing tooth remnants and the number 11 tooth which was totally sound.

She fabricated a temporary bridge and this bridge became loose after a few days on two occasions. The bridge was stable as she had used a permanent cement and after several days I received a phone call that the permanent bridge had arrived and I proceeded to her practice for the installation.

[REDACTED] [REDACTED] did not “just discover that number 11 was loose and cut off the temporary bridge” as she stated in her entry into my medical records. She did not inform me that number 11 was loose as the tooth was not loose. She began by grinding the bonding material and she continued to grind for a lengthy period. She had used permanent bonding material when the temporary bridge had previously become dislodged and this material is much harder and difficult to remove. She ground for a lengthy period, stopped and again began grinding on at least two more occasions. She finally stopped grinding and locked a device onto the temporary bridge and began pulling with extreme force. She was pulling with such force that she was pulling my upper body up from the chair. I felt the tooth began to break loose from the jaw tissue and I could feel the tissue being torn from the tooth. This was so painful that I involuntarily screamed out in the worst pain I have ever experienced. That was when she stopped. My scream was so embarrassing and so loud that I believe everyone in the building could have heard. She then stopped pulling, backed away by 3-4 feet, stood there for 15-20 seconds and departed the room without speaking one word. My entire body was uncontrollably shaking, I was breathing very hard and my mouth was filling with blood. The young woman in the room with me left the room after approximately 3-4 minutes without speaking at all. I believe she was at a loss as what to do and was frightened. [REDACTED] returned to the room after approximately 20-30 minutes and without any conversation told me that she had made me an appointment with an oral surgeon ([REDACTED] [REDACTED]) to remove the tooth. The tooth was so loose that I could move it with my tongue. I believe she could have removed the tooth very easily with a shot of Novocain but I believe she did not want her fingerprints on the complete removal as that would prove that she alone extracted the tooth.

I called my son [REDACTED] who took me to Doctor [REDACTED]’s (Oral Surgeon) office that afternoon and Doctor Shaw put me to sleep and extracted the tooth. [REDACTED] transported me as I could not have driven for some time due to the sedation. [REDACTED] [REDACTED] instructed me to return to her office that evening which I did. She told me that she would make me dentures at a later date. She gave me her cell phone number and told me to call her anytime day or night if I had any problems or pain.

[REDACTED] also took me to the same Doctor [REDACTED] at a later date for removal of the remnants of the remaining upper teeth.

She eventually made me a denture and charged me between \$2500-\$3000 and after several frank conversations, she refunded me part of my money as the dentures were useless and would not stay seated in my mouth. She offered to make me a”

**Respondent #23** – “The board decided that the dentist did nothing wrong. When the federal judge said he did, the board covered up his negligence.”

**Respondent #24** – “Extremely Disappointed in the outcome of their response. The fault of an incompetent dentist led to over \$1,000.00 worth of damages while our family fought COVID19. Very disappointed.”

**Respondent #25** – “Even though I sent 20-30 pages of support documents, the Board simply responded there was "insufficient evidence to proceed with investigation". The dentist I complained about cost me over a thousand dollars, time, and likely my #19 tooth, and yet nothing was done. Additionally, there is a recent Google review from a new Dr. [REDACTED] patient complaining about the same office manager, so nothing has been done. The good news is I have found an excellent dentist in Tennessee. As a positive comment for the Board, I was not able to get a copy of my records from Dr. [REDACTED] until the Board interceded. When the board contacted Dr. [REDACTED] directly, a copy of my records was in the mail the next day, so thank you for that.”

**Respondent #26** – “I don't feel they checked much of anything. By now I don't know if I have the report or anything.”

**Respondent #27** – “I was extremely disappointed in the Alabama Dental Boards response to my claim. Claimed there was not enough information/documentation. I suffered six weeks of non-stop horrible pain from botched root canal, maxed out my insurance, had to have the new crown and tooth pulled, three days after the root canal every joint in my body became inflamed and Dr. [REDACTED] just couldn't figure out why that would happen and why I was in constant pain. I had documentation and CT scan from Oral Surgeon showing root canal filler laying on my jawbone, and it was on a nerve/nerves. He is performing root canals without a CT machine in his office to make sure the root canal is sealed. It killed part of my jawbone that had to be removed and my face and lips had muscle spasms for months and lips were numb causing me to constantly bite my lip. It was horrible and nothing was done to him.”

**Respondent #28** – “The Board has the power to enforce the law against non-licensees practicing dentistry in this state but refuses to do so. Their hand was called on the exact same situation several years ago, but when a new, out of state company began the unlicensed practice of dentistry in this state approximately 4 years ago, the Board refused to act against the company, but instead went after and fined the dentists working for this company, even though the Board had okayed them to do so.”

**Respondent #29** – “I submitted two complaints about Dr. [REDACTED]. I had mounds of proof, including audio recordings. I sent proof, including audios, around February 1, 2023. Post office lost it, and did not deliver. I kept in touch with examiner (several emails), and post office trying to get pkg delivered. Finally gave up on USPS and resent it all by UPS around March 1. It was received within days. Then...nothing. Finally contacted examiner around June and was told the complaint was dismissed. If you look at what I sent...I doubt 5% of complaints had as much proof to back them up as I did. Proof of [REDACTED] lying, and office refusing to give me my records. Proof that he either did not look at my medications or else, knowing the implants would fail, 'treated' me anyway (to the tune of \$9837-[REDACTED] did wind up refunding half of it after he saw I might cause him trouble). Proof of unnecessary pain. How the examiners could dismiss my complaint is beyond me. Please, look at what I sent!”

**Respondent #30** – “I have not been informed of any investigation nor conclusion. I have to assume that the board is simply a protection racket for irresponsible and incompetent dentists. [REDACTED] [REDACTED] is an irresponsible and lying person with no conscience. If the board desires to perform a legitimate investigation, they should contact the dental assistant who was in the room the day she destroyed my upper mouth. I do not know her name or if she is still employed by [REDACTED] [REDACTED] but you people could perform a legitimate investigation and locate that young woman. If you are a legitimate organization, you would provide me the results of your investigation.”

# **APPENDICES**

## **Appendix I - Applicable Statutes**

### **CHAPTER 9 Dentists and Dental Hygienists.**

#### **Article 1 General Provisions.**

##### **Section 34-9-1 Definitions.**

For the purposes of this chapter, the following terms have the respective meanings ascribed by this section:

- (1) ADMINISTER. When used in reference to a controlled substance, the direct application of a controlled substance to the body of a patient by a dentist by injection, inhalation, ingestion, or other means.
- (2) ANNUAL REGISTRATION. The documentary evidence that the board has renewed the authority of the licensee to practice dentistry or dental hygiene in this state.
- (3) BOARD. The Board of Dental Examiners of Alabama.
- (4) COMMERCIAL DENTAL LABORATORY. A technician or group of technicians available to any or all licensed dentists for construction or repair of dental appliances.
- (5) DISPENSE. When used in reference to a controlled substance, the delivery of a controlled substance to a patient by a dentist, including the prescribing and administering of a controlled substance.
- (6) GENERAL ANESTHESIA. A controlled state of unconsciousness, accompanied by a partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic method.
- (7) INFILTRATION ANESTHESIA. A form of local anesthesia wherein the terminal or peripheral sensory portion of either the maxillary or mandibular branch of the trigeminal nerve endings are anesthetized by injecting a solution submucosally into an intra-oral circumscribed area for the relief or prevention of pain.
- (8) LICENSE. The grant of authority by the board to an individual to engage in the practice of dentistry or dental hygiene.
- (9) LICENSE CERTIFICATE. The documentary evidence under seal of the board that the board has granted authority to the licensee to practice dentistry or dental hygiene in this state.
- (10) LICENSED DENTIST. A dentist who holds a current license certificate from the board.
- (11) LICENSED HYGIENIST. A hygienist who holds a current license certificate from the board.
- (12) LOCAL ANESTHESIA. The elimination of sensations, especially pain in one part of the body by topical application or regional injection of a drug.
- (13) PATIENT ABANDONMENT. The termination of dental treatment without giving the patient adequate notice of at least 15 days before the termination of dental treatment. Adequate notice includes informing the patient of the availability of emergency treatment and providing the patient with an opportunity to obtain the services of another dentist during the notice period. Abandonment may also occur if the dentist jeopardizes the health of the patient during the termination process.
- (14) PRACTICE OF DENTISTRY ACROSS STATE LINES.
  - a. The practice of dentistry as defined in Section 34-9-6 as it applies to the following:
    1. The rendering of a written or otherwise documented professional opinion concerning the diagnosis or treatment of a patient located within this state by a dentist located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to the dentist or his or her agent.

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

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

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

(15) PRIVATE TECHNICIAN. A technician employed by a dentist or group of dentists for a specified salary.

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

*(Acts 1959, No. 100, p. 569, §34; Acts 1985, No. 85-697, §1; Act 99-402, p. 669, §1; Act 2009-18, p. 43, §3; Act 2013-252, p. 626, §1; Act 2018-274, §1; Act 2023-362, §1.)*

### **Section 34-9-2 Legislative Findings.**

(a) The Legislature hereby declares that the practice of dentistry and the practice of dental hygiene affect the public health, safety, and welfare and should be subject to regulation. It is further declared to be a matter of public interest and concern that the dental profession merit and receive the confidence of the public and that only qualified dentists be permitted to practice dentistry and only qualified dental hygienists be permitted to practice dental hygiene in the State of Alabama. All provisions of this chapter relating to the practice of dentistry and dental hygiene shall be liberally construed to carry out these objects and purposes.

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

(c) The Legislature further finds and declares that the practice of dentistry and the practice of dental hygiene are each a privilege. The licensure by this state of nonresident dentists who engage in dental practice and persons who engage in the practice of dental hygiene within this state are within the public interest. The ability to discipline the nonresident dentists and dental hygienists who engage in dental practice in this state is necessary for the protection of the citizens of this state and for the public interest, health, welfare, and safety.

*(Acts 1959, No. 100, p. 569, §1; Act 99-402, p. 669, §1; Act 2011-571, p. 1165, §1.)*

**Section 34-9-3 License or Permit Required to Practice Dentistry.**

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

- (1) Those who are now duly licensed or permitted dentists, pursuant to law.
- (2) Those who may be hereafter duly licensed or permitted and who are currently registered as dentists, pursuant to this chapter.
- (3) Those nonresident dentists who have been issued a special purpose license to practice dentistry across state lines in accordance with Section 34-9-10. This subdivision shall not apply to those dentists who hold a full, unrestricted, and current license or permit issued pursuant to Section 34-9-8 or Section 34-9-10.

*(Acts 1959, No. 100, p. 569, §7; Act 99-402, p. 669, §1; Act 2011-571, p. 1165, §1.)*

**Section 34-9-4 License Required to Practice Dental Hygiene or Expanded Duty Dental Assisting.**

It shall be unlawful for any person to practice dental hygiene in the State of Alabama, except:

- (1) Those who are now licensed dental hygienists pursuant to law; and
- (2) Those who may hereafter be duly licensed and who are currently registered as dental hygienists pursuant to this chapter.

*(Acts 1959, No. 100, p. 569, §8; Act 2013-252, p. 626, §1; Act 2018-274, §1.)*

**Section 34-9-5 Penalties.**

Any individual who engages in the practice of dentistry in this state within the meaning of this chapter without having first obtained from the board a license to practice dentistry shall be guilty of a Class C felony and shall be punished as prescribed by law.

*(Acts 1959, No. 100, p. 569, §9; Act 99-402, p. 669, §1; Act 2011-571, p. 1165, §1; Act 2023-362, §1.)*

**Section 34-9-6 What Constitutes Practice of Dentistry.**

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

- (1) Performs, or attempts or professes to perform, any dental operation or dental service of any kind, gratuitously or for a salary, fee, money, or other remuneration paid, or to be paid, directly or indirectly, to himself or herself, or to any person in his or her behalf, or to any agency which is a proprietor of a place where dental operations or dental services are performed.
- (2) Directly or indirectly, by any means or method, makes impression of the human tooth, teeth, jaws, or adjacent tissue, or performs any phase of any operation incident to the replacement of a tooth or any part thereof.
- (3) Supplies artificial substitutes for the natural teeth, and who furnishes, supplies, constructs, reproduces, or repairs any prosthesis (fixed or removable), appliance, or any other structure to be worn in the human mouth.
- (4) Places such appliance or structure in the human mouth, or adjusts, attempts, or professes to adjust the same, or delivers the same to any person other than the dentist upon whose prescription the work was performed.

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

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

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

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

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

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

(11) Performs any clinical operation included in the curricula of recognized dental colleges; provided, that members of the faculty, teachers, instructors, fellows, interns, residents, dental students, and student dental hygienists who are employed by or who are taking courses or instructions at the University of Alabama School of Dentistry or such other dental colleges, hospitals, or institutions in Alabama, as may be approved by the board; and provided, that the work of fellows, interns, residents, dental students, and student dental hygienists is performed within the facilities of such dental colleges, hospitals, and institutions under the supervision of an instructor and as an adjunct to his or her course of study or training, shall not be required to take examination or obtain a license certificate and renewal license certificate when all of such work, dental procedures, and activities are confined to his or her work in the college, hospital, or other institution and the work is done without remuneration other than the regular salary or compensation paid by such colleges, hospitals, or other institutions.

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

*(Acts 1959, No. 100, p. 569, §10; Act 2011-571, p. 1165, §1; Act 2013-252, p. 626, §1; Act 2018-274, §1.)*

**Section 34-9-6.1 Mobile Dental Facilities or Portable Dental Operations.**

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

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

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

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

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

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

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

(1) The operator shall maintain an official business address which shall not be a post office box and which shall be within this state and be associated with an established dental facility which shall have an official business address on record with the board. The address shall be filed with the board as part of the application for a certificate of registration.

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

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

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

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

(6) The operator shall maintain a written procedure for emergency follow-up care for patients treated in a mobile dental facility, which includes arrangements for treatment in a dental facility that is permanently established in the area within a 50-mile radius where services are provided subject to a qualified dentist being located in the area and subject to the dentist agreeing to provide follow-up care. An operator who either is unable to identify a qualified dentist in the area or is unable to arrange for emergency follow-up care for patients otherwise shall be obligated to provide the necessary follow-up care via the mobile dental facility or the operator may choose to provide the follow-up care at his or her established dental practice location in the state or at any other established dental practice in the state which agrees to accept the patient. An operator who fails to arrange or provide follow-up care as required herein shall be considered to have abandoned the patient, and the operator and any dentist or dental hygienist, or both, who fails to provide the referenced follow-up care shall be subject to disciplinary action by the board.

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

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

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

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

(11) The operator of a mobile dental facility shall not perform services on a minor without the signed consent from the parent or guardian which form shall be established by the board. The consent form shall inquire whether the prospective patient has received dental care from a licensed dentist within one year and if so, the consent form shall request the name, address, and phone number of the dental home. If the information provided to the operator does not identify a dental home for the prospective patient, the operator shall contact the Alabama Medicaid Agency for assistance in identifying a dental home for Medicaid eligible patients. If this information is provided to the operator, the operator shall contact the designated dental home by phone, facsimile, or electronic mail and notify the dental home of the prospective patient's interest in receiving dental care from the operator. If the dental home confirms that an appointment for the prospective patient is scheduled with the dentist, the operator shall encourage the prospective patient or his or her guardian to seek care from the dental home. The consent form shall document that the patient, or legal guardian, understands the prospective patient has an option to receive dental care from the mobile dental facility or his or her designated dental home if applicable. The consent form shall require the signature of a parent or legal guardian if the patient is a minor.

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

- a. The street address of the service location.
- b. The dates of each session.
- c. The number of patients served.
- d. The types of dental services provided and the quantity of each service provided.
- e. Any other information requested by rule of the board.

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

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

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

- (1) Ready access in a ramp or lift.
- (2) A properly functioning sterilization system.
- (3) Ready access to an adequate supply of potable water, including hot water.
- (4) A covered galvanized, stainless steel, or other noncorrosive container for deposit of refuse and waste materials.

- (5) Ready access to toilet facilities which shall be located within the mobile dental facility. Operators applying for a certificate prior to July 1, 2008, are not required to meet this requirement. Any governmental entity operating a mobile dental facility shall only be required to have ready access to toilet facilities.
- (6) All licenses and permits as required by Section 34-9-13 on site.
- (7) Ready access to an emergency kit.
- (8) Sharps containers and red biohazard equipment available on site.
- (e) A portable dental operation shall comply with all of the following requirements:
- (1) The operator shall maintain an official business address which shall not be a post office box and which shall be within this state and be associated with an established dental facility which shall have an official business address on record with the board. The address shall be filed with the board as part of the application for a certificate of registration.
- (2) The operator shall maintain an official telephone number of record which shall be accessible 24 hours a day and which shall be filed with the board as part of the application for a certificate of registration. The telephone number shall have E-911 capability.
- (3) The board shall be notified within 30 days of any change in address, location, or telephone number of record. The notification shall also include the method by which patients are notified of the change of address, location, or telephone number of record. For purposes of this subdivision, patient shall mean any individual who has received treatment or consultation of any kind within two years of the date of the proposed change of address, location, or telephone number of record.
- (4) All written or printed documents available from or issued by the portable dental operation shall contain the official business address and telephone number of record for the portable dental operation.
- (5) When not in transit, all dental and official records shall be maintained at the official business address.
- (6) The operator shall maintain a written procedure for emergency follow-up care for patients treated in a portable dental operation, which includes arrangements for treatment in a dental facility that is permanently established in the area within a 50-mile radius where services are provided subject to a qualified dentist being located in the area and subject to the dentist agreeing to provide follow-up care. An operator who either is unable to identify a qualified dentist in the area or is unable to arrange otherwise for emergency follow-up care for patients shall be obligated to provide the necessary follow-up care via the portable dental operation, or the operator may choose to provide the follow-up care at his or her established dental practice location in the state or at any other established dental practice in the state which agrees to accept the patient. An operator who fails to arrange or provide follow-up care as required herein shall be considered to have abandoned the patient, and the operator and any dentist or dental hygienist, or both, who fail to provide the referenced follow-up care shall be subject to disciplinary action by the board.
- (7) The portable dental operation shall have communication abilities that enable the operator to contact necessary parties in the event of a medical or dental emergency. The communication abilities shall enable the patient or the parent or guardian of the patient treated to contact the operator for emergency care, follow-up care, or information about treatment received. The provider who renders follow-up care must also be able to contact the operator and receive treatment information, including radiographs.
- (8) The portable dental operation and the dental procedures performed therein shall comply with all applicable federal and state laws and all applicable rules of the board promulgated pursuant to Section 34-9-43.

(9) The operator of a portable dental operation may not perform services on a minor without the signed consent from the parent or guardian on a form established by the board. The consent form shall request information as to whether the prospective patient has received dental care from a licensed dentist within one year and, if so, shall request the name, address, and phone number of the dental home. If the information provided to the operator does not identify a dental home for the prospective patient, the operator shall contact the Alabama Medicaid Agency for assistance in identifying a dental home for Medicaid eligible patients. If this information is provided to the operator, the operator shall contact the designated dental home by phone, facsimile, or electronic mail and notify the dental home of the prospective patient's interest in receiving dental care from the operator. If the dental home confirms that an appointment for the prospective patient is scheduled with the dentist, the operator shall encourage the prospective patient or his or her guardian to seek care from the dental home. The consent form shall document that the patient, or legal guardian, understands the prospective patient has an option to receive dental care from either the portable dental operation or his or her designated dental home, if applicable. The consent form shall require the signature of a parent or legal guardian if the patient is a minor.

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

- a. The street address of the service location.
- b. The dates of each session.
- c. The number of patients served.
- d. The types of dental services provided and the quantity of each service provided.
- e. Any other information requested by rule of the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) In the event a mobile dental facility or a portable dental operation is to be sold, the current operator shall inform the board and the Alabama Medicaid Agency, if the operator is an Alabama Medicaid enrolled provider, at least 10 days prior to the sale being completed and shall be required to disclose the purchaser to the board and the Alabama Medicaid Agency, if the operator is an Alabama Medicaid enrolled provider, via certified mail within 10 days after the date the sale is finalized. The operator of a mobile dental facility or a portable dental operation shall notify the board and the Alabama Medicaid Agency, if the operator is an Alabama Medicaid enrolled provider, at least 30 days prior to cessation of operation. Such notification shall include the final day of operation and a copy of the notification shall be sent to all patients and shall include the manner and procedure by which patients may obtain their records or transfer those records to another dentist. It is the responsibility of the operator to take all necessary action to insure that the patient records are available to the patient, a duly authorized representative of the patient, or a subsequent treating dentist. For purposes of this subsection, a patient shall mean any individual who has received any treatment or consultation of any kind within two years of the last date of operation of the mobile dental facility or a portable dental operation.

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

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

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

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

(r) This section shall not apply to any mobile dental facility operated by the Alabama Department of Public Health or a local county health department.

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

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

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

*(Act 2008-279, p. 536, §§1, 3; Act 2011-571, p. 1165, §1; Act 2018-274, §1.)*

#### **Section 34-9-7 Exemption of Certain Practices and Operations.**

(a) Nothing in this chapter shall apply to the following practices, acts, and operations:

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

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

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

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

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

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

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

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

(9) A dentist who engages in the practice of dentistry across state lines on an irregular or infrequent basis. The "irregular or infrequent" practice of dentistry across state lines is considered to occur if the practice occurs less than 10 days in a calendar year.

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

*(Acts 1959, No. 100, p. 569, §1; Acts 1967, No. 729, p. 1564, §1; Acts 1981, No. 81-372, p. 540, §1; Act 99-402, p. 669, §1; Act 2011-571, p. 1165, §1; Act 2013-252, p. 626, §1; Act 2018-274, §1.)*

#### **Section 34-9-7.1 Exemption of Participation in Continuing Education Course.**

The practice of dentistry by a dentist licensed in another state as a part of participation in a continuing education course conducted, taught, or supervised by the University of Alabama School of Dentistry or any other continuing education provider in Alabama which is approved by the board is exempt from the licensing requirements of this chapter.

*(Act 2002-512, p. 1318, §2; Act 2018-274, §1.)*

#### **Section 34-9-7.2 Registration of A 501(C)(3) Entity.**

A 501(c)(3) entity, as defined under Section 501(c)(3) of the Internal Revenue Code, that operates a dental clinic that provides dental services shall register with the board. The information provided to the board as a part of the registration process shall include the name of the corporation, the nonprofit status of the corporation, sites where dental services shall be provided by the corporation, and the names of all persons employed by, or contracting with, the corporation who are required to hold a license pursuant to this chapter. A copy of the entity's 501(c)(3) certification from the Internal Revenue Service shall be filed with the board. If the entity has multiple clinics, the entity shall register each clinic with the board and the entity shall have one licensed dentist serving as chief of dental services for all of the clinics. All dentists and hygienists at each clinic shall possess the applicable licenses or permits required by this chapter and shall be subject to this chapter.

*(Act 2011-571, p. 1165, §2; Act 2013-252, p. 626, §1; Act 2018-274, §1.)*

**Section 34-9-8 Dental Facility Teaching Permits; Dental Facility Special Teaching Permits.**

(a) The board shall annually issue dental faculty teaching permits to persons who are bona fide members of the faculty of a dental college, if they hold a dental degree but are not licensed and registered to practice dentistry or dental hygiene in the state. The dean of any dental college located in the state shall annually certify to the board the bona fide members of the clinical faculty of the college who are not licensed and registered to practice dentistry or dental hygiene in the state. The board shall issue teaching permits to applicants upon the certification by the dean. The teaching permits shall be invalid if the holder ceases to be a member of the clinical faculty of the dental college. The dean of any dental college shall promptly notify the board regarding changes in the faculty which affect the eligibility of a faculty member to possess a teaching permit. The holder of a teaching permit shall be subject to this chapter and may perform all clinical operations which a person licensed to practice dentistry or dental hygiene in the state is entitled to perform. The operations may only be performed within the facilities of the dental college or any other facility approved by the board as an adjunct to his or her teaching functions in the college. An annual fee established pursuant to this chapter shall be paid to the board when the teaching permit is issued.

(b) The board shall annually issue dental faculty special teaching permits to persons who are bona fide members of the faculty of a dental college if they hold a dental degree but are not licensed and registered to practice dentistry or dental hygiene in the state. The dean of any dental college located in the state shall annually certify to the board the bona fide members of the clinical faculty of the college who are not licensed and registered to practice dentistry or dental hygiene in the state. The board shall issue special teaching permits to applicants upon certification by the dean. The special teaching permits shall be invalid if the holder ceases to be a member of the clinical faculty of the dental college. The dean of any dental college shall promptly notify the board regarding changes in the faculty which affect the eligibility of a faculty member to possess a special teaching permit. The holder of a special teaching permit shall be subject to this chapter and may perform all clinical operations on his or her private patients which a person licensed to practice dentistry or dental hygiene in the state is entitled to perform. The clinical operations may only be performed within the faculty private practice facilities of the dental college or any other facility approved by the board. An annual fee established pursuant to this chapter shall be paid to the board when the special teaching permit is issued.

*(Acts 1959, No. 100, p. 569, §12; Acts 1979, No. 79-427, p. 668, §1(a); Acts 1993, No. 93-159, p. 241, §3; Act 2011-571, p. 1165, §1; Act 2013-252, p. 626, §1; Act 2018-274, §1.)*

**Section 34-9-9 Exercise of Independent Professional Judgment By Dentists; Prohibited Business Arrangements or Relationships; Penalties.**

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

- (1) Employ a dentist or dental hygienist in the operation of a dental office.
- (2) Place in the possession of a dentist, dental hygienist, or other agent such dental material or equipment as may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation for the use of such material, equipment, or offices.
- (3) Retain the ownership or control of dental equipment, material, or office and make the same available in any manner for the use of a dentist, dental hygienist, or other agent.
- (4) The term "person," as used in this section, shall not in any way pertain to state, county, municipal, or city institutions but shall be deemed to include any individual, firm, partnership, corporation, or other entity not licensed to practice dentistry in the State of Alabama.

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

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

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

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

(1) The patient records of a dentist.

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

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

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

*(Acts 1959, No. 100, p. 569, §13; Acts 1981, No. 81-372, p. 540, §2; Acts 1985, No. 85-697, p. 1120, §1; Act 2009-18, p. 43, §3; Act 2011-571, p. 1165, §1; Act 2013-252, p. 626, §1; Act 2018-274, §1.)*

### **Section 34-9-10 Application; Licensure by Credentials; Special Purpose License.**

(a)(1) Every individual who desires to practice dentistry within the State of Alabama shall file an application accompanied by the appropriate fee prescribed by the board.

(2) Notwithstanding any particular requirement or method of obtaining licensure set forth in this chapter, every applicant shall be at least 19 years of age, of good moral character, a citizen of the United States or, if not a citizen of the United States, an individual who is legally present in the United States with appropriate documentation from the federal government, and a graduate of a dental school or college accredited by the American Dental Association Commission on Dental Accreditation and approved by the board and shall satisfy any other requirement set forth in any rule adopted by the board.

(3) The board may issue a license to practice dentistry to any applicant who meets the licensure requirements set forth in this chapter and the applicable rules of the board, and may refrain from issuing a license to any applicant if the board determines that doing so would be inconsistent with the public interest and the promotion of public health and safety.

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

(1) An applicant who has never been licensed or taken an examination and whose application to take an examination administered or approved by the board is received by the board within 18 months of graduation from dental school or completion of an accredited or approved post-doctoral residency program.

(2) An applicant who has successfully passed an examination approved but not administered by the board so long as an application for licensure is received by the board within five years of the date of notification of passing the examination.

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

(d) Licensure by credentials may be utilized to evaluate the theoretical knowledge and clinical skill of a dentist or dental hygienist when an applicant for licensure by credentials holds a dental or dental hygiene license in another state. The board may adopt rules relating to licensure by credentials in addition to any requirements by law. The dentist or dental hygienist applicant for licensure by credentials shall satisfy all of the following:

(1) Has been engaged in the active practice of clinical dentistry or clinical dental hygiene or in full-time dental or dental hygiene education for the five years or 5,000 hours immediately preceding his or her application.

(2) Holds a current, valid, unrevoked, and unexpired license in a state having examination standards regarded by the board as an equivalent to the Alabama standards.

(3) Is licensed in good standing without any restrictions, as verified by the board of examiners in the state of current practice.

(4) Is not the subject of a pending disciplinary action in any state in which he or she has been licensed as verified by a query to the National Practitioner Data Bank, the Health Integrity Protection Data Bank, the American Association of Dental Boards Clearing House for Disciplinary Information, or any other pertinent bank currently existing or which may exist in the future.

(5) Provides a written statement agreeing to be interviewed at the request of the board.

(6) Passes a written jurisprudence examination.

(7) Is certified by the United States Drug Enforcement Administration and from the state board of any state in which he or she is or has been licensed that the DEA registration is not the subject of any pending disciplinary action or enforcement proceeding of any kind.

(8)a. Submits affidavits as a dentist applicant from two licensed dentists practicing in the same geographical area where he or she is then practicing or teaching attesting to his or her moral character, standing, and ability of the applicant. The dental hygiene applicant shall submit affidavits from two licensed dentists or two licensed dental hygienists, or any combination of two thereof, practicing in the same geographical area where he or she is then practicing or teaching, attesting to his or her moral character, standing, and ability.

(9) Provides the board with an official transcript with school seal from the school of dentistry or school of dental hygiene that issued his or her professional degree, or executes a request and authorization allowing the board to obtain the transcript.

(10) Is a graduate of a dental or dental hygiene school, college, or educational program approved by the board.

(11) Is not be the subject of any pending or final action from any hospital revoking, suspending, limiting, modifying, or interfering with any clinical or staff privileges.

(12) Has not have been convicted of a felony or misdemeanor involving moral turpitude or of any law dealing with the administering or dispensing of legend drugs, including controlled substances.

(13) Any other criteria required by the board by rule, including, but not limited to, any of the following:

- a. Questioning under oath.
- b. Results of peer review reports from constituent dental societies or federal dental services.
- c. Substance abuse testing or treatment.
- d. Background checks for criminal or fraudulent activities.
- e. Participation in continuing education.
- f. A current certificate in cardiopulmonary resuscitation.
- g. Recent case reports or oral defense of diagnosis and treatment plans.
- h. Proof of no physical or psychological impairment that would adversely affect the ability to practice dentistry or dental hygiene with reasonable skill and safety.
- i. An agreement to initiate practice within the State of Alabama within a period of one year.
- j. Proof of professional liability coverage and that coverage has not been refused, declined, canceled, nonrenewed, or modified.
- k. Whether the applicant has been subject to any final disciplinary action in any state in which he or she has been licensed which shall be verified by a query in the National Practitioner Data Bank, the Health Integrity Protection Data Bank, the American Association of Dental Boards Clearing House for Disciplinary Information, any state where the applicant has been licensed, or any other pertinent bank currently existing or which may exist in the future.
- l. Whether the applicant's DEA registration or any state controlled substances permit has ever been revoked, suspended, modified, restricted, or limited in any way. Provided, however, that any discipline that results only from a failure to timely renew a registration or permit shall not prevent him or her from being eligible for this method of licensure.

(e) If all criteria and requirements are satisfied and the board determines, after notice and a hearing, that the applicant committed fraud or in any way falsified any information in the application process, the license may be revoked by the board.

(f) In addition to the requirements for applicants seeking licensure by credentials, an applicant desiring to practice a specialty only shall satisfy the following requirements:

(1) The specialty shall be one in a branch of dentistry approved by the board.

(2) The applicant shall satisfy the existing educational requirements and standards set forth by the board for that approved specialty.

(3) An applicant who chooses to announce or practice a specialty shall limit his or her practice exclusively to the announced special area or areas of dental practice.

(4) If an applicant who is initially licensed by credentials for a specialty practice decides to renounce his or her specialty and practice general dentistry and the license originally issued did not require a general dental license but rather a specialty license, or if the applicant originally passed only a specialty examination, the applicant may not practice general dentistry until he or she successfully passes the board's regular general dentistry examination. However, if the applicant passed a general dentistry examination or holds a general dentistry license and practices a specialty, then decides not to continue that specialty but to practice only general dentistry, the applicant is eligible for licensure by credentials as a general dentist.

(g)(1) Notwithstanding subsection (a), the board shall issue a special purpose license to practice dentistry across state lines to an applicant who has met the following requirements:

a. Holds a full and unrestricted license to practice dentistry in any state of the United States or in territories, other than the State of Alabama, in which the applicant is licensed.

b. Has not had any disciplinary action or other action taken against him or her by any state or licensing jurisdiction. If there has been previous disciplinary or other action taken against the applicant, the board may issue a certificate of qualification if it finds that the previous disciplinary or other action indicates that the dentist is not a potential threat to the public.

c. Submits an application and application fee for a certificate of qualification for a special purpose license to practice dentistry across state lines on a form provided by the board and pays a fee upon certification. All required fees shall be established by the board.

(2) A special purpose license issued by the board to practice dentistry across state lines limits the licensee solely to the practice of dentistry across state lines. The special purpose license shall be valid for a period of up to three years, shall expire on a renewal date determined by the board, and may be renewed upon receipt of a renewal fee as established by the board. Failure to renew a license according to the renewal schedule established by the board shall cause the special purpose license to be inactive. An applicant may reapply for a special purpose license to practice dentistry across state lines following placement of the license on inactive status. The applicant shall meet the qualifications of subdivision (1) in order to be eligible for renewal of the license.

(3) Notwithstanding the provisions of this section, the board shall only issue a special purpose license to practice dentistry across state lines to an applicant whose principal practice location and license to practice are located in a state or territory of the United States whose laws permit or allow for the issuance of a special purpose license to practice dentistry across state lines or similar license to a dentist whose principal practice location and license are located in another state. It is the stated intent of this section that dentists who hold a full and current license authorizing him or her to practice in the State of Alabama shall be afforded the opportunity to obtain a reciprocal license to practice dentistry across state lines in any other state or territory of the United States as a precondition to the issuance of a special purpose license as authorized by this section to a dentist licensed in the other state or territory. The board shall determine which states or territories have reciprocal licensure requirements meeting the qualifications of this section.

(h) Any applicant who does not qualify for licensure pursuant to any of the above subsections but who has passed an out-of-state examination approved by the board and possesses a license in good standing authorizing the applicant to practice in the state of issuance is eligible to apply for licensure upon payment of a fee established by the board. The board shall have discretion whether to require an examination for the applicant, including the time, place, type, and content of the examination.

*(Acts 1959, No. 100, p. 569, §14; Acts 1979, No. 79-427, p. 668, §1(b); Act 99-402, p. 669, §1; Act 2002-512, p. 1318, §1; Act 2003-391, p. 1100, §1; Act 2009-18, p. 43, §3; Act 2010-262, p. 473, §1; Act 2011-571, p. 1165, §1; Act 2013-252, p. 626, §1; Act 2018-274, §1; Act 2023-362, §1.)*

### **Section 34-9-11 Examination of Applicants; Issuance of Licenses.**

When an application and accompanying proof as required under this chapter are found satisfactory, the Board shall notify the applicant to appear for examination at a time and place to be fixed by the board, and each applicant shall be examined and graded by number in lieu of name. All examinations provided for in this chapter shall be approved by the board and shall be of the type and character as to test the qualifications of the applicant to practice dentistry. Provided, however, the board may recognize any written parts of an examination given by the Joint Commission on National Dental Examinations in lieu of or subject to the board examinations as the board may approve. Those found qualified by the board, consistent with Section 34-9-10(a) shall be granted a license and a license certificate which shall bear a serial number, the full name of the licensee, the date of issuance, and the seal of the board, and shall be signed by each member of the board.

*(Acts 1959, No. 100, p. 569, §15; Acts 1985, No. 85-697, p. 1120, §1; Act 2009-18, p. 43, §3; Act 2023-362, §1.)*

**Section 34-9-12 Recording, Reporting Requirements.**

(a) Every person granted a license to practice dentistry or dental hygiene in this state by the board, as herein provided, shall cause his or her license certificate to be recorded in the office of the judge of probate of the county in which he or she desires to practice before beginning the practice of dentistry or dental hygiene in the county. Any person receiving a license from the board, whether or not intending to immediately engage in the practice of dentistry or dental hygiene in this state, shall cause his or her license certificate to be recorded in the office of the judge of probate in one of the counties of this state within 60 days of the issuance of the license certificate.

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

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

*(Acts 1959, No. 100, p. 569, §16; Act 99-402, p. 669, §1; Act 2013-252, p. 626, §1; Act 2018-274, §1.)*

**Section 34-9-13 License and Registration Certificates to be Kept in Office of Practitioner.**

Every practitioner of dentistry and dental hygiene within the meaning of this chapter shall have in his or her possession and posted in a visible location a license certificate and an annual registration certificate in the office wherein he or she practices. A licensed practitioner who practices in more than one location may reproduce the annual registration certificate as needed; however, the practitioner may not reproduce the license certificate. Copies of the license certificate may be requested by the practitioner from the board as necessary.

*(Acts 1959, No. 100, p. 569, §17; Act 2011-571, p. 1165, §1; Act 2013-252, p. 626, §1; Act 2018-274, §1.)*

**Section 34-9-14 Change of Address Generally.**

Every licensed dentist and dental hygienist upon changing his or her place of practice, whether from one building, city, street address, or county to another, shall within 30 days thereafter furnish the secretary-treasurer of the board with the new address. The secretary-treasurer shall acknowledge receipt of change of address within 30 days.

*(Acts 1959, No. 100, p. 569, §18; Act 2013-252, p. 626, §1; Act 2018-274, §1.)*

**Section 34-9-15 Annual Registration; Continuing Education.**

(a) No individual shall practice dentistry or dental hygiene in the State of Alabama unless licensed or permitted by the board and registered annually as required by this chapter.

(b)(1) The secretary-treasurer of the board shall issue to each licensee an initial registration form which shall contain space for the insertion of name, address, date, and number of license certificate, and other information as the board shall deem necessary. The licensee shall sign and verify the accuracy of the registration before a notary public after which he or she shall forward the registration to the secretary-treasurer of the board together with a fee. Each subsequent registration shall be made in electronic format or by United States mail upon a form to be determined by the board.

(2) On or before October 1 of each year, every dentist and dental hygienist licensed or permitted to practice dentistry or dental hygiene in the state shall transmit either online or by United States mail to the secretary-treasurer of the board the completed form prescribed by the board, together with a fee established by the board pursuant to this chapter, and receive thereafter the current annual registration certificate authorizing him or her to continue the practice of dentistry or dental hygiene in the state for a period of one year. Notwithstanding Section 34-9-16, the total amount of any administrative fines and costs assessed upon the licensee pursuant to Section 34-9-18 in a final and non-appealable order or agreement shall be added to and made a part of the fee.

(c)(1) Any license or permit previously granted under the authority of this chapter or any prior dental practice act shall automatically be suspended if the holder thereof fails to secure the annual registration certificate before January 1, each year. Any dentist or dental hygienist whose license or permit is automatically suspended by reason of failure, neglect, or refusal to secure the annual registration certificate shall be reinstated by the board upon payment of the penalty fee plus all accrued annual registration fees up to a maximum of five years, accompanied with the prescribed form for annual registration of the license or permit.

(2) Upon failure of any licensee or permittee to file application for the annual registration certificate and pay the annual registration fee on or before November 30, each year, the board shall notify the licensee or permittee by mail addressed to the last address of record that the application and fee have not been received and that, unless the application and fee are received on or before the first day of January, the license or permit shall be automatically suspended. The board shall notify the licensee or permittee by mail addressed to the last address of record of the effective date of the automatic suspension and the provisions for registration of the license or permit.

(d)(1) The board shall waive the annual payment of fees herein provided for and issue a current annual registration certificate to any licensee or permittee who has retired from the practice of dentistry or dental hygiene because of age or physical disability. (2) The board by rule shall waive annual registration and the payment of fees while any licensee is on temporary active duty with any of the Armed Forces of the United States.

(3) The waivers of fees provided in this subsection shall be effective so long as the retirement because of age or physical disability or temporary active duty continues.

(e) The board shall adopt rules for the adoption of a program of continuing education for its licensees. The successful completion of continuing education program requirements shall be a requisite for renewal of licenses and permits issued pursuant to this chapter.

*(Acts 1959, No. 100, p. 569, §18; Acts 1965, 3rd Ex. Sess., No. 25, p. 232, §1; Acts 1979, No. 79-427, p. 668, §1(c); Acts 1989, No. 89-407, p. 868, §3; Acts 1993, No. 93-159, p. 241, §3; Acts 1997, No. 97-701, p. 1418, §1; Act 2003-391, p. 1100, §1; Act 2009-18, p. 43, §3; Act 2011-571, p. 1165, §1; Act 2013-252, p. 626, §1; Act 2018-274, §1; Act 2023-362, §1.)*

**Section 34-9-15.1 Release of Records.**

(a) Upon the request of a patient or authorized agent of a patient, a dentist shall promptly release to the patient or his or her authorized agent legible and accurate copies of all records of the patient regardless of how they are generated or maintained. The reasonable costs of reproducing copies shall not be more than the amounts authorized by statute and in the absence of any statutory authority no more than the actual cost of the reproduction.

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

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

*(Act 2009-18, p. 43, §4; Act 2011-571, p. 1165, §1.)*

**Section 34-9-16 Fee Schedule.**

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

Description	NOT MORE THAN
Dental Examination Application Fee	\$750.00
Dental Examination Fee	\$2,500.00
Dental Examination Materials Fee	\$500.00
Dental Licensure By Credentials Application Fee	\$4,000.00
Dental Licensure By Regional Exam Application Fee	\$1,000.00
Special Purpose Licensure Fee	\$750.00
Special Purpose Licensure Renewal Fee	\$750.00
Dental Annual Registration Fee	\$500.00
Dental License Reinstatement Penalty	\$500.00
Dental Hygiene Program Application Fee	\$500.00
Alabama Dental Hygiene Training Permit Fee	\$450.00
Alabama Dental Hygiene Training Education Fee	\$600.00
Alabama Dental Hygiene Program Instructor Certification Course Fee	\$200.00
Alabama Dental Hygiene Program Instructional Materials Fee	\$950.00
Dental Hygiene By Regional Exam Application Fee	\$500.00
Dental Hygiene Examination Application Fee	\$500.00
Dental Hygiene Examination Fee	\$600.00

Description	NOT MORE THAN
Dental Hygiene Examination Materials Fee	\$400.00
Dental Hygiene Licensure By Credentials Fee	\$2,000.00
Dental Hygiene Annual Registration Fee	\$75.00
Dental Hygiene License Reinstatement Penalty	\$200.00
Dental Hygiene Infiltration Anesthesia Permit Fee	\$250.00
Dental Hygiene Infiltration Anesthesia Renewal Fee	\$250.00
License Certificate Fee	\$500.00
Duplicate or Replacement License Fee	\$150.00
Dental Faculty Teaching Permit Fee	\$350.00
Dental Faculty Special Teaching Permit Fee	\$500.00
Alabama Controlled Substance Permit Fee	\$400.00
Alabama Controlled Substance Permit Renewal Fee	\$400.00
General Anesthesia Permit Fee	\$1,500.00
General Anesthesia Permit Renewal Fee	\$750.00
Parenteral Sedation Permit Fee	\$1,500.00
Parenteral Sedation Permit Renewal Fee	\$750.00
Oral Conscious Sedation Permit Fee	\$250.00
Oral Conscious Sedation Permit Renewal Fee	\$250.00
Mobile Dental Application/Inspection Fee	\$1,500.00
Mobile Dental Renewal Fee	\$1,500.00
Mobile Dental Facility/Portable Dental Operation Application for Certificate of Registration Fee	\$750.00
Mobile Dental Facility/Portable Dental Operation Renewal of Certificate of Registration Fee	\$500.00
Alabama Impaired Dental Professionals Committee Annual Monitoring Fee	\$2,000.00

*(Acts 1959, No. 100, P. 569, §20; Acts 1965, 3rd Ex. Sess., No. 25, P. 232; Acts 1979, No. 79-427, P. 668, §1(D); Acts 1989, No. 89-407, P. 868, §3; Acts 1993, No. 93-159, P. 241, §3; Act 98-279, P. 457, §1; Act 99-402, P. 669, §1; Act 2009-18, P. 43, §5; Act 2010-262, P. 473, §1; Act 2011-571, P. 1165, §1; Act 2013-252, P. 626, §1; Act 2018-274, §1.)*

**Section 34-9-17 Use of Names.**

(a) Any person or persons may practice or offer to practice dentistry in connection with any dental office or offices by or under the use of a name other than their own provided their name or names as they appear on their license certificate granted to him or them as a dentist pursuant to this chapter appear in a reasonably dignified manner either following or beneath any name selected and further provided that such person or persons are personally present in their office or offices operating as a dentist or personally overseeing such operations as they are performed in their office or each of their offices. When an associate in practice is on temporary active duty with the armed forces, his or her name may continue to appear in connection with the practice of dentistry at any office or offices. Nothing herein shall allow or permit any person or persons to select a name that suggests or implies a nonprofit or charitable activity. The violation of any of the provisions of this subsection by any dentist may subject such dentist to any of the penalties outlined in Section 34-9-18.

(b) It shall be unlawful for a licensee to permit his or her name to appear in any manner on, within, or in connection with any office which he or she has sold to another licensee and from which he or she has severed active practice, provided the name of the dentist who sells his or her office to a licensed dentist, or in the event of the death of a licensee, the name of the deceased dentist, may remain in the office for a period not to exceed 12 months and it shall also be unlawful for the buyer to permit the former owner's name or the deceased's license to appear in any manner on, within, or in connection with the office, except as herein provided. The violation of any of the provisions of this subsection by any dentist may subject such dentist to the penalties outlined in subsection (b) of Section 34-9-18.

(c) Nothing in this section shall be so construed as to prevent two or more licensed dentists from associating together for the practice of dentistry.

*(Acts 1959, No. 100, p. 569, §21; Acts 1985, No. 85-697, p. 1120, §1; Act 2009-18, p. 43, §5.)*

**Section 34-9-18 Grounds for Disciplinary Action.**

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

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

(2) Gross immorality.

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

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

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

(6) Is guilty of negligence or gross negligence.

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

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

(7) Is guilty of employing, allowing, or permitting any unlicensed person or persons to perform any work in his or her office which, under this chapter, can only be legally done by a person or persons holding a license to practice dentistry or dental hygiene.

- (8) Willfully or negligently violates the rules of the State Department of Health or of the board regarding sanitation.
- (9) Is guilty of division of fees, or agreeing to split or divide the fee received for dental service with any person for bringing or referring a patient without the knowledge of the patient or his or her legal representative, except the division of fees between dentists practicing in a partnership and sharing professional fees, or in case of one licensed dentist employing another.
- (10) Is guilty of professional connection or association with or lending his or her name to anyone who is engaged in the illegal practice of dentistry or dental hygiene.
- (11) Conviction in any court of competent jurisdiction of a felony or a misdemeanor involving moral turpitude.
- (12)a. A dental hygienist using or attempting to use in any manner whatsoever any prophylactic list, call list, records, reprints, or copies of same, or information gathered therefrom, of the names of patients whom the dental hygienist served in the office of a prior employer, unless the names appear upon the bona fide call or prophylactic list of his or her present employer and were caused to appear through the legitimate practice of dentistry or dental hygiene as provided for in this chapter.
- b. A licensed dentist who aids or abets or encourages a dental hygienist employed by him or her to make use of a prophylactic list or the calling by telephone or by the use of letters transmitted through the mails to solicit patronage from patients formerly served in the office of any dentist employing the hygienist.
- (13) Pertaining to licensed dentists only, the prescribing, administering or dispensing of any controlled substances enumerated in Schedules I through V contained in the Alabama Uniform Controlled Substances Act, Chapter 2 of Title 20, or any amendment or successor thereto, or any drug not prescribed for any dentally or facially related condition, and/or for any necessary medication during the course of treatment rendered directly by the dentist, for any person not under his or her treatment in the regular practice of his or her profession.
- (14) Irregularities in billing an insurance company or other third party payer for services rendered to a patient. For the purposes of this section irregularities in billing shall include: Reporting charges for the purpose of obtaining a total payment in excess of that usually received by the dentist for the services rendered; falsely reporting treatment dates for the purpose of obtaining payment; falsely reporting charges for services not rendered; falsely reporting services rendered for the purpose of obtaining payment; or failing to advise any third party payer that the copayment provisions of a contract have been abrogated by accepting the payment received from the third party payer as full payment.
- (15) Pertaining to licensed dentists only, patient abandonment.
- (16) Violating any rule adopted by the board.
- (17) Has had his or her license or permit to practice dentistry or dental hygiene from another state suspended or revoked based upon acts similar to those described in this section. A certified copy of the record of suspension or revocation of the state making the suspension or revocation shall be conclusive evidence thereof.
- (18) Violating any provision of this chapter.
- (b) When the board finds any dentist or dental hygienist guilty of any of the grounds set forth in subsection (a), it may enter an order imposing one or more of the following penalties:
- (1) Refuse to issue the dentist or dental hygienist any license or permit provided for in this chapter.
  - (2) With the exception of negligence as defined in paragraph (a)(6)a. revoke the license or permit of any dentist or dental hygienist.
  - (3) Suspend the license or permit of any dentist or dental hygienist.
  - (4) Enter a censure.

- (5) Issue an order fixing a period and terms of probation best adapted to protect the public health and safety and to rehabilitate the dentist or dental hygienist.
- (6) Impose an administrative fine not to exceed five thousand dollars (\$5,000) for each count or separate offense.
- (7) Impose restrictions on the scope of practice.
- (8) Impose peer review or professional education requirements.
- (9) Assess the costs of the disciplinary proceedings.
- (c) Failure to comply with any order of the board, including, but not limited to, an order of censure or probation, is cause for suspension or revocation of a license.
- (d)(1) No disciplinary action as outlined in subsection (b) or (c) shall be invoked or entered except after a hearing by the board as provided in this chapter, and such order is subject to judicial review as provided by this chapter.
- (2) No order of suspension or revocation provided in this section shall be made or entered except after a hearing by the board as provided in this chapter, and the order shall be subject to judicial review as provided by this chapter.
- (e)(1) The board may temporarily suspend a special purpose license to practice dentistry across state lines without a hearing on either of the following grounds:
- a. The failure of the licensee to appear or produce records or materials as requested by the board.
  - b. The initiation of a disciplinary action against the licensee by any state or territorial licensing jurisdiction in which the licensee holds a license to practice dentistry.
- (2) Notwithstanding any other provision of law, including the Alabama Administrative Procedure Act, the temporary suspension provided herein shall remain in effect until either the licensee has complied with the request of the board or the disciplinary action pending against the licensee has been terminated in favor of the licensee and the temporary suspension has been terminated by a written order of the board. A special purpose license to practice dentistry across state lines is subject to each of the grounds for disciplinary action provided in this section in accordance with the procedures of Section 34-9-24 and the Alabama Administrative Procedure Act.
- (f) Members of the board, any agent, employee, consultant, or attorney for the board, and the members of any committee of dentists or dental hygienists impaneled by the board, shall be immune from suits for any conduct in the course of their official duties with respect to investigations or hearings; provided, that the persons act without malice and in good faith that such investigations or hearings are warranted by the facts, known to them after diligent effort to obtain the facts of the matter relative to the investigations or hearings.
- (g) Nothing in this chapter shall be interpreted to limit or restrict the authority of the board to discipline any dentist licensed to practice in this state who violates this chapter while engaging in the practice of dentistry within this or any other state.
- (h) The board shall have the authority to adopt rules imposing a non-disciplinary administrative penalty for designated violations of this chapter.
- (Acts 1959, No. 100, p. 569, §22; Acts 1981, No. 81-372, p. 540, §3; Acts 1985, No. 85-697, p. 1120, §1; Acts 1986, No. 86-498, p. 950, §1; Act 99-402, p. 669, §1; Act 2005-73, p. 106, §3; Act 2009-18, p. 43, §5; Act 2011-571, p. 1165, §1; Act 2013-252, p. 626, §1; Act 2018-274, §1.)*

**Section 34-9-19 Advertising - Dentist; Specialty Requirements; Practice Emphasis; Purpose of Section; Rules and Regulations.**

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

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

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

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

a. Contains a material misrepresentation of fact or law.

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

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

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

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

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

(c) A dentist may not hold himself or herself out as a specialist or advertise specialty status unless the specialty is approved by the board.

(d) Dentists who are not specialists in specialties approved by the board may nevertheless advertise that their practice is limited to a specific area of dentistry only if the dentist has obtained membership in or otherwise has been credentialed by an accrediting organization which is recognized by the board as a bona fide organization for such an area of practice.

(e) Notwithstanding any provision of this section to the contrary, a dentist licensed pursuant to this chapter may not hold himself or herself out as a specialist or advertise membership in a specialty recognized by an accrediting organization, unless the dentist has continuously held himself or herself out as a specialist since December 31, 1964, in a specialty recognized by the board or has completed a specialty education program approved by the board and the Commission on Dental Accreditation and meets either of the following qualifications:

(1) Is eligible for examination by a national specialty board recognized by the board.

(2) Is a diplomate of a national specialty board recognized by the board.

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

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

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

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

(g) Notwithstanding the requirements of subsections (e) and (f), a dentist who lacks membership in or certification, diplomate status, or other similar credentials from an accrediting organization approved as bona fide by the board may announce a practice emphasis in any other area of dental practice if the dentist incorporates in capital letters or some other manner clearly distinguishable from the rest of the announcement, solicitation, or advertisement the following statement:

" \_\_\_\_\_ (NAME OF ANNOUNCED AREA OF DENTAL PRACTICE) IS NOT RECOGNIZED AS A SPECIALTY AREA BY THE BOARD OF DENTAL EXAMINERS OF ALABAMA." If such an area of dental practice is officially recognized by an organization which the dentist desires to acknowledge or otherwise reference in the dentist's announcement, solicitation, or advertisement, the same announcement, solicitation, or advertisement shall also state prominently: " \_\_\_\_\_ (NAME OF REFERENCED ORGANIZATION) IS NOT RECOGNIZED AS A BONA FIDE SPECIALTY ACCREDITING ORGANIZATION BY THE BOARD OF DENTAL EXAMINERS OF ALABAMA."

(h) The purpose of this section is to prevent a dentist from advertising without appropriate disclosure membership in an organization which may be perceived by the public as recognizing or accrediting specialization or other unique competencies in an area of dentistry that is not recognized or accredited by the board in accordance with this section. The purpose of this section is also to prohibit a dentist from advertising a specialty or other area of dental practice without appropriate disclosure unless the special competencies held by the dentist satisfy the requirements of subsections (d) and (f). The Legislature finds that dental consumers can reasonably rely on these requirements as satisfactory evidence of a dentist's attainment of meaningful competencies in the specialty or other bona fide area of dental practice advertised. The Legislature also finds that this process for the recognition of dental specialties and other bona fide areas of dental practice is the least restrictive means available to ensure that consumers are not misled about a dentist's unique credentials.

(i) A dentist who lacks membership in or certification, diplomate status, or similar credentials from an accrediting organization approved as bona fide by the board may announce a practice emphasis in any other area of dental practice if the dentist incorporates the disclaimer set forth in subsection (g).

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

*(Acts 1959, No. 100, p. 569, §23; Acts 1981, No. 81-372, p. 540, §4; Acts 1985, No. 85-697, p. 1120, §1; Acts 1988, 1st Ex. Sess., No. 88-854, p. 327, §1; Acts 1997, No. 97-701, p. 1418, §1; Act 2003-391, p. 1100, §1; Act 2004-484, p. 901, §2; Act 2009-18, p. 43, §5; Act 2018-274, §1.)*

**Section 34-9-19.1 Advertising - Dental Referral Service; Requirements; Prohibitions; Penalties.**

(a) For purposes of this section, the following words shall have the following meanings:

(1) ADVERTISEMENT. Information communicated in a manner designed to attract public attention to a referral service, participating dentist, or a practice of dentistry.

(2) DENTAL REFERRAL SERVICE. A person, firm, partnership, association, corporation, agent, or employee of any of the foregoing that engages in any business or service for profit that in whole or in part includes the referral or recommendation of persons to a dentist for any form of dental care or treatment.

(3) DENTIST. Any person licensed to practice dentistry or any entity authorized by law which is formed for the purpose of practicing dentistry.

(4) FALSE, FRAUDULENT, MISLEADING, OR DECEPTIVE STATEMENT. A statement or claim having one or more of the following characteristics:

- a. One that contains a misrepresentation of fact.
- b. One that is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts.
- c. One that is intended or is likely to create a false or unjustified expectation of favorable results.
- d. One that implies unusual superior dental ability.
- e. One that contains other representations or implications that in reasonable probability will cause an ordinary and prudent person to misunderstand or be deceived.

(5) PARTICIPATING DENTIST. A dentist who has paid a fee to the dental referral service in order to be included on its referral service.

(b) A dental referral service shall not participate in the advertising of or operate a dental referral service unless all of the following conditions are met:

(1) The patient referrals by the dental referral service result from patient-initiated responses to the service's advertising.

(2) The dental referral service discloses to any prospective patient who makes contact with the service that the participating dentists have paid a fee for participation in the service.

(3) The dental referral service does not impose a fee on the participating dentists dependent on the number of referrals or amount of professional fees paid by the patient to the dentist.

(4) Participating dentists charge no more than their usual and customary fees to any patient referred.

(5) The dental referral service registers with the Board of Dental Examiners of Alabama providing all the following information:

a. Name.

b. Street address.

c. Mailing address.

d. Telephone number.

e. Name of registered agent or person responsible for the operation of the dental referral service.

f. Listing of other states where the dental referral service is registered.

g. A copy of the standard form contract that regulates its relationship with participating dentists.

(c) Participating dentists shall not enter into a contract or other form or agreement to accept for dental care or treatment a person referred or recommended for the care or treatment by a dental referral service unless the dental referral service meets all the requirements of this section.

(d) A dental referral service that advertises shall include in each advertisement in legible or audible language, or both, a disclaimer containing all the following statements or information that:

(1) The participating dentist of the dental referral service is a dentist who has paid a fee to participate in the service.

(2) The advertisement is paid for by participating dentists.

(3) No representation is made about the quality of the dental services to be performed or the expertise of the participating dentists.

(4) Participating dentists are not more or less qualified than dentists who are not participating in the service.

(e) Dental referral service advertisements shall not do any of the following:

(1) Advertise or solicit patients in a manner that contains a false, fraudulent, misleading, or deceptive statement in any material respect.

(2) Publish or circulate, directly or indirectly, any false, fraudulent, misleading, or deceptive statement as to the skill or methods of practice of any participating dentist.

(3) Contain a statement or make a recommendation that the dental referral service provides referrals to the most qualified dentists or dental practices.

(4) Contain a review process or a screening.

(5) Contain qualifications or information verification that misleads the public into thinking a participating dentist has obtained special recognition or joined a selective group of licensed dentists by being a participating dentist in the dental referral service.

(f) A violation of Sections 34-9-15, 34-9-19, 34-9-28, or this section, including, but not limited to, advertising in any manner which is false, fraudulent, misleading, or deceptive, shall subject a participating dentist to possible administrative disciplinary actions outlined in Section 34-9-18, after notice and hearing by the Board of Dental Examiners of Alabama and the opportunity for judicial review as provided in this article.

*(Acts 1997, No. 97-701, p. 1418, §2; Act 2003-391, p. 1100, §1.)*

**Section 34-9-20 Unauthorized Advertising, Selling, or Offering of Dental Services and Appliances; Injunctions.**

Any person, which word when used in this section shall include all legal entities not licensed to practice dentistry in this state, who shall advertise in any manner to the general public that he or she can or will sell, supply, furnish, construct, reproduce, or repair prostheses (fixed or removable), or other appliances to be used or worn as substitutes for natural teeth, or for the regulation thereof, shall be guilty of a misdemeanor, and the circuit courts shall have jurisdiction to enjoin such person from so doing.

*(Acts 1959, No. 100, p. 569, §24; Acts 1981, No. 81-372, p. 540, §5; Act 2011-571, p. 1165, §1.)*

**Section 34-9-21 Employing Services of Commercial Dental Laboratory or Private Technician.**

(a) Every duly licensed and registered dentist who employs the services of a commercial dental laboratory or private technician for the purpose of constructing, altering, repairing, or duplicating any prostheses (fixed or removable), splint, or orthodontic appliance shall be required to furnish the commercial dental laboratory or private technician an impression or cast made by the dentist when necessary, together with a prescription setting forth the following:

(1) The name and address of the commercial dental laboratory or private dental technician.

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

(3) The date on which the prescription was written.

(4) A description of the work to be done, with diagram if necessary.

(5) A specification of the type and quality of materials to be used.

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

(b) Such prescription shall be made in duplicate form. The duplicate copy shall be retained in a permanent file for a period of two years by the dentist, and the original copy shall be retained on a permanent file for a period of two years by the commercial dental laboratory or private technician. Such permanent file of prescriptions to be kept by such dentists, commercial dental laboratory, or private technician shall be open to inspection at any reasonable time by the board or its duly constituted agent. Failure of the dentist, commercial dental laboratory, or private technician to keep such permanent records of prescriptions which are identifiable with each prostheses (fixed or removable), splint, or orthodontic appliance shall be prima facie evidence of a violation of this chapter and shall constitute and be punishable as a misdemeanor.

*(Acts 1959, No. 100, p. 569, §25; Act 2011-571, p. 1165, §1.)*

**Section 34-9-22 Sale, Offer to Sell, Procurement, or Alteration of Diploma or Certificate; Fraud or Cheating.**

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

*(Acts 1959, No. 100, p. 569, §26; Acts 1985, No. 85-697, p. 1120, §1; Act 2011-571, p. 1165, §1; Act 2013-252, p. 626, §1; Act 2018-274, §1.)*

**Section 34-9-23 Title and Letters Signifying Degree.**

Any licensed dentist of this state being a graduate of a reputable dental school or college recognized by the board shall have the right to use the title "doctor" or abbreviation thereof before his or her name, or appended to his or her name the letters "D.D.S.," "D.M.D.," or equivalent letters signifying the dental degree conferred upon him or her.

*(Acts 1959, No. 100, p. 569, §27.)*

**Section 34-9-24 Statement of Charges and Notice of Hearing Before Revocation or Suspension of License.**

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

*(Acts 1959, No. 100, p. 569, §29; Acts 1965, 3rd Ex. Sess., No. 25, p. 232, §1; Act 2011-571, p. 1165, §1.)*

**Section 34-9-25 Judicial Review of Orders of Board.**

From any order of the board imposing any of the penalties found in Section 34-9-18, any party affected thereby may bring an action in the circuit courts to set aside the order on the ground that same is unlawful or arbitrary.

*(Acts 1959, No. 100, p. 569, §30; Acts 1985, No. 85-697, p. 1120, §1.)*

**Section 34-9-26 Examination, Qualifications, Licensing, Etc., of Dental Hygienists.**

(a) No individual shall practice as a dental hygienist in this state he or she is duly licensed and currently registered as a dental hygienist pursuant to this chapter.

(b) The board may issue licenses and license certificates to practice as dental hygienists to applicants who have passed the examination and have been found qualified by the board. Alternatively, the board may deny licenses or license certificates in instances where it determines that doing so would be inconsistent with the public interest and the promotion of public health and safety.

(c) The license certificate and annual registration certificate shall be displayed in the office in which the dental hygienist is employed.

(d) No applicant shall be entitled to a license and license certificate unless he or she is 19 years of age and of good moral character.

(e) Each applicant for examination and license as a dental hygienist shall meet either of the following requirements:

(1) Has graduated from a school of dental hygiene that has been approved by the board.

(2) Has served as a dental assistant for a period of time established by board rule and has served at least one year as a dental hygienist trainee under a training permit issued by the board to a qualified dentist practicing in this state in accordance with the dental hygienist training program established by the board.

(f) Any person practicing in violation of this section shall be guilty of a misdemeanor, and the board may impose the penalties outlined in Section 34-9-18 for such violation.

*(Acts 1959, No. 100, p. 569, §35; Acts 1979, No. 79-427, p. 668, §1(e); Acts 1985, No. 85-697, p. 1120, §1; Acts 2001-269, p. 328, §3; Act 2009-18, p. 43, §5; Act 2011-571, p. 1165, §1; Act 2013-252, p. 626, §1; Act 2018-274, §1; Act 2023-362, §1.)*

### **Section 34-9-27 Employment, Supervision, and Practice of Dental Hygienists.**

(a) A dental hygienist shall work only under the direct supervision of a licensed dentist practicing in this state. A dental hygienist may perform any duties allowed by rule of the board and assist a licensed or permitted dentist in his or her practice.

(b) Any dental hygienist licensed by the board under this chapter who has completed the curriculum for dental hygienists at a dental school approved by the board shall have the right to use the title Registered Dental Hygienist or the abbreviation thereof, "R.D.H." appended to his or her name signifying the license conferred.

(c) The board may impose any of the penalties outlined in Section 34-9-18 against any dentist who permits any dental hygienist working under his or her supervision to perform any operation other than those permitted under this section, and may impose the penalties outlined in Section 34-9-18 against any dental hygienist who performs any operation other than those permitted under this section.

*(Acts 1959, No. 100, p. 569, §36; Acts 1985, No. 85-697, p. 1120, §1; Acts 1993, No. 93-159, p. 241, §3; Act 2011-571, p. 1165, §1; Act 2013-252, p. 626, §1; Act 2018-274, §1; Act 2023-362, §1.)*

### **Section 34-9-28 Notification of Change of Address or Employer; Annual Registration Requirements.**

It shall be the duty of all licensed dental hygienists to notify the board, in writing, of any change of address or employer and have issued to them an annual registration certificate by the board. Any dental hygienist whose license shall be automatically suspended by reason of failure, neglect, or refusal to secure the annual registration certificate may be reinstated by the board upon payment of the penalty fee plus the current year's registration fee. The form and method provided for in Section 34-9-15 shall apply to the annual registration of dental hygienists.*(Acts 1959, No. 100, p. 569, §37; Acts 1965, 3rd Ex. Sess., No. 25, p. 232, §1; Acts 1997, No. 97-701, p. 1418, §1; Act 2009-18, p. 43, §5; Act 2011-571, §1; Act 2013-252, p. 626, §1; Act 2018-274, §1.)*

**Section 34-9-29 Injunctions Against Violations of Chapter.**

When it appears to the board that any person is violating any of the provisions of this chapter, the board may in its own name bring an action in the circuit court for an injunction, and said court of this state may enjoin any person from violating this chapter regardless of whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted. For purposes of this section, person shall be deemed to include any individual, firm, partnership, corporation, professional association, professional corporation or other entity.

*(Acts 1959, No. 100, p. 569, §31; Acts 1985, No. 85-697, p. 1120, §1.)*

**Article 2 Board of Dental Examiners.**

**Section 34-9-40 Creation; Composition.**

(a) In order to accomplish the purposes and to provide for the enforcement of this chapter, there is hereby created the board. The board is hereby vested with the authority to carry out the purposes and enforce the provisions of this chapter. On June 24, 1959, the members of the present board now in existence shall hold office for the remainder of their respective terms for which they have been elected and thereafter until their successors are elected and qualified and shall constitute the board under this chapter. The board shall consist of six dentists who shall be selected in the method set forth herein all of whom having been actively engaged in the practice of dentistry in the State of Alabama for at least five years next preceding the date of their election and one dental hygienist elected at-large as provided in subsection (b). Each member of the board shall be a citizen of this state. No member of the board shall be a member of the faculty of any dental school, dental college, dental hygiene school, or dental hygiene college or receive any financial benefits for teaching in any dental school, dental college, dental hygiene school, or dental hygiene college or have a financial interest in a commercial dental laboratory or a dental supply business. One member, who is qualified as provided herein, shall be selected by the Alabama Dental Society every five years. As for all elections of members, any group of 10 or more licensed dentists, residing and practicing dentistry in the state, may nominate a candidate for the position of board member by submitting a petition bearing their signatures to the secretary of the board to be postmarked no later than the first day of July in the year of the election. The board shall cause the election ballots to be mailed or published digitally not later than September 1 in the year of the election to all the licensed dentists residing and practicing in the state and currently registered as prescribed by law. The ballot shall be postmarked, or otherwise submitted electronically, no later than October 1 to the secretary of the board. Three members of the board shall be present at the time the ballots, digital or physical, are tallied. Any candidate receiving a majority of the votes shall be declared elected to the board and will take the oath of office on or before October 15 in the year of his or her election. In the event no candidate receives a majority of the votes cast, the board shall conduct a run-off election between the two candidates receiving the largest number of votes. The board shall cause the ballots pertaining to the run-off election to be mailed or digitally published on or before October 31 of the election year to all the licensed dentists who have renewed their licenses for the succeeding year as of October 1 of the current year, are residing and practicing in the state, and currently are registered as prescribed by law, and the ballots pertaining to the run-off election shall be postmarked or digitally published no later than the fourteenth day of November in the year of the run-off election and received, if mailed, by the secretary of the board no later than the first board workday following the fourteenth day of November. All mailed ballots received after this date shall be nullified. In the event of a run-off election, the candidate receiving the largest number of votes in the run-off election shall be declared elected to the board and shall take the oath of office and begin his or her term of office no later than the next scheduled board meeting. Every member elected shall hold

office for a period of five years, which terms shall begin immediately upon taking an oath to properly and faithfully discharge the duties of his or her office and until his or her successor is elected and qualified, and the member so elected or appointed shall not at the expiration of the term be eligible to succeed himself or herself. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. Except for the board member position selected by the Alabama Dental Society, vacancies on the board shall be filled by the board by the appointment of the immediate past member of the board, and if for any reason the immediate past member of the board is unable to accept the appointment, then the board shall fill the vacancy by appointment of the most recent past board member who is willing to accept the appointment. If no past board member accepts the appointment, then the board may, by majority vote, appoint any licensed dentist qualified under the provisions of this chapter. In the event of a vacancy in the position selected by the Alabama Dental Society, the Alabama Dental Society shall select a dentist who is qualified as provided herein to fill the vacancy. Members of the board shall be removed by a two-thirds vote of the registered dentists in the state for neglect of duty or any just cause, by petition to the secretary of the board by 10 percent of the licensed dentists in the state. On or before July 1, 1962, the board shall send a copy of this section to all licensed dentists in the state.

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

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

a. Any group of 10 or more licensed dental hygienists, residing and practicing dental hygiene in the State of Alabama, may nominate a candidate for the dental hygienist position by submitting a petition bearing their signatures to the secretary of the board no later than the first day of July in the year of an election. The board shall cause election ballots to be mailed or published digitally no later than September 1 in the year of an election to all the licensed dental hygienists residing and practicing in the state and currently registered as prescribed by law. The ballot shall be postmarked or otherwise submitted electronically no later than October 1 to the secretary of the board.

b. Three members of the board shall be present at the time the ballots, digital or physical, are tallied. Any candidate receiving a majority of the votes shall be declared elected to the board and shall take the oath of office on or before October 15 in the year of his or her election. In the event no candidate receives a majority of the votes cast, the board shall conduct a run-off election between the two candidates receiving the largest number of votes. The board shall cause the ballots pertaining to any run-off election to be mailed or digitally published on or before October 31 of the election year to all licensed dental hygienists who have renewed their licenses for the succeeding year as of October 1 of the current year, are residing and practicing in the state, and are currently registered as prescribed by law, and the ballots pertaining to the run-off election shall be postmarked or digitally submitted no later than the fourteenth day of November in the year of the run-off election and received, if mailed, by the secretary of the board no later than the first board workday following November 14. All mailed ballots received after November 14 shall be nullified. In the event of a run-off election, the dental hygienist candidate receiving the largest number of votes in the run-off election shall be declared elected to the board and shall take the oath of office and begin his or her term of office no later than the next scheduled board meeting.

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

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

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

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

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

*(Acts 1959, No. 100, p. 569, §2; Acts 1961, Ex. Sess., No. 58, p. 1923, §1; Acts 1993, No. 93-159, p. 241, §3; Acts 1997, No. 97-155, p. 202, §3; Act 99-402, p. 669, §1; Act 2009-18, p. 43, §5; Act 2011-571, p. 1165, §1; Act 2013-252, p. 626, §1; Act 2018-274, §1.)*

**Section 34-9-41 Officers of Board; Seal; Meetings; Compensation; Disposition of Funds.**

The board shall annually elect from its membership a president, vice-president, and secretary-treasurer and may employ staff members who are not members of the board. The board shall have a common seal. The board shall hold an annual meeting for the purpose of transacting its business and examinations, and additional meetings at such times and places as the board may designate. A majority of the board shall constitute a quorum for the transaction of business at any meeting except that in conducting hearings involving any of the penalties outlined in Section 34-9-18, no less than five members of the board shall be present. In conducting hearings involving any of the penalties outlined in Section 34-9-18, a majority of the board may appoint any former member of the board who for such purposes shall have all the powers and privileges of such office as a regular board member possesses. In conducting or participating in exams, a majority of the board may appoint any former member of the board or such other licensed practicing dentists from a jurisdiction recognized by the board who for such purposes shall have all the powers and privileges of such office as a regular board member possesses. Out of the funds of the board the members thereof shall receive as compensation a sum to be fixed by the board for each day actively engaged in the duties of their office, and in addition board members shall receive the same per diem and travel allowance as is paid by law to state employees for each day actively engaged in the duties of their office. The secretary-treasurer shall receive such compensation as may be fixed by the board, which shall be in addition to his or her per diem and expenses, provided no per diem or expenses shall be allowed unless his or her duties require his or her absence from his or her office. The secretary shall receive such compensation as may be fixed by the board. The secretary-treasurer shall be custodian of all property, money, records and the official seal of the board. All money received by the board under this chapter shall be paid to and received by the secretary-treasurer of the board. The secretary-treasurer shall deposit to the credit of the board all funds paid to the board in a bank selected by its members. The board is authorized to expend such funds as shall be necessary to enforce the provisions of this chapter; to pay salaries, expenses and other costs herein provided; to promote the arts and science of dentistry; and for such other purposes as the board shall consider to be in the best interest of dentistry in this state. All the costs herein provided for shall be paid by checks drawn by the secretary-treasurer and countersigned by the president of the board; except the board may authorize the administrative secretary or the executive director to sign checks for costs that do not exceed a monetary limit to be set by the board in its rules. Should the property be other than money, the secretary-treasurer shall provide for the safekeeping thereof for the use of the board. All money, including license fees, annual renewal license certificate fees, examination fees and any and all other fees and receipts under the provisions of this chapter, are hereby appropriated to the board to be used as herein provided.

*(Acts 1959, No. 100, p. 569, §3; Acts 1961, Ex. Sess., No. 58, p. 1923, §1; Acts 1979, No. 79-427, p. 668, §1 (f); Acts 1985, No. 85-697, p. 1120, §1; Acts 1989, No. 89-407, p. 868, §3; Act 2009-18, p. 43, §5; Act 2010-262, p. 473, §1; Act 2011-571, p. 1165, §1; Act 2018-274, §1.)*

**Section 34-9-42 Bond of Secretary-Treasurer of Board; Annual Report and Audit; National Affiliation.**

The secretary-treasurer of the board shall give bond in such sum as may be prescribed by the board, conditioned to faithfully and honestly discharge the duties of the office according to law, which bond shall be made payable to the Board of Dental Examiners of Alabama and held in the custody of the president of the board. The secretary-treasurer of the board shall compile an annual report which shall contain an itemized statement of all money received and disbursed and a summary of the official acts of the board during the preceding year, and the report shall have attached thereto a certified report and audit made by a certified public accountant of the State of Alabama. A copy of the report and audit shall be filed of record in the office of the Department of Finance of the State of Alabama, and a copy shall be retained by the secretary-treasurer to be rendered upon request, to the dentists at large in the State of Alabama. The board may affiliate with the American Association of Dental Boards, may pay dues to the association and may send all members of the board to the meetings of the association. Such delegates may receive the per diem herein provided for attending such meetings and reimbursement for necessary expenses audited and allowed by the board.

*(Acts 1959, No. 100, p. 569, §4; Acts 1961, Ex. Sess., No. 58, p. 1923, §1; Acts 1981, No. 81-372, p. 540, §6; Act 2010-262, p. 473, §1.)*

**Section 34-9-43 Powers and Duties Generally.**

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

- (1) Adopt rules for its government as deemed necessary and proper.
- (2) Adopt rules for qualification and licensing of dentists and dental hygienists.
- (3) Conduct or participate in examinations to ascertain the qualification and fitness of applicants for licenses as dentists and dental hygienists.
- (4) Adopt rules regarding sanitation.
- (5) Adopt rules by which dental schools and colleges are approved, and adopt rules by which training, educational, technical, vocational, or any other institution that provides instruction for dental assistants, dental laboratory technicians, or any other parodontal personnel are approved.
- (6) Grant or deny licenses, license certificates, teaching permits, and annual registration certificates in conformity with this chapter.
- (7) Conduct hearings or proceedings to impose the penalties specified in Section 34-9-18.
- (8)a. Employ necessary individuals to assist in performing its duties in the administration and enforcement of this chapter, and to provide offices, furniture, fixtures, supplies, printing, or secretarial service and expend necessary funds.  
b. Employ an attorney or attorneys, subject to the approval of the Attorney General, to advise and assist in the carrying out and enforcing this chapter. Provided, however, that if the board contracts with an outside attorney to be general counsel to the board, that attorney or any member of a law firm with which he or she is associated shall not function as the board's prosecutor at disciplinary hearings.
- (9)a. Investigate alleged violations of this chapter and institute or have instituted before the board or the proper court appropriate proceedings regarding the violation.  
b. Authorize and employ investigators who comply with the Alabama Peace Officers' Standards and Training Act to exercise the powers of a peace officer in investigating alleged violations of the drug or controlled substances laws by individuals licensed pursuant to this chapter, including the powers of arrest and inspection of documents.
- (10) Adopt rules to implement this chapter.

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

(12) Attend meetings, seminars, workshops, or events that may improve the function and efficiency of the board or improve the ability of the board to enforce and administer this chapter.

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

*(Acts 1959, No. 100, p. 569, §5; Acts 1981, No. 81-372, p. 540, §7; Acts 1985, No. 85-697, p. 1120, §1; Acts 1987, No. 87-578, p. 923, §1; Acts 1993, No. 93-159, p. 241, §3; Act 2009-18, p. 43, §5; Act 2011-571, p. 1165, §1; Act 2023-362, §1.)*

### **Section 34-9-43.1 Administration and Enforcement of Duties; Consultants.**

(a) The board may employ investigators, attorneys, agents, and any other employees and assistants to aid in the administration and enforcement of the duties of the board. The board may request assistance from the Attorney General, district attorneys, or other prosecuting attorneys of this state in the various circuits and counties. All prosecuting attorneys throughout the state shall assist the board, upon request of either, in any action for injunction or any prosecution without charge or additional compensation.

(b) The board may employ consultants to render professional services such as, but not limited to, reviewing records and providing expert testimony in contested cases to aid the board in carrying out its lawful responsibilities. Consultants shall be compensated for professional services at rates established by the board by rule. In addition, consultants shall be reimbursed for actual reasonable expenses for travel, lodging, meals, long distance telephone expense, and other expenses reasonably incurred in the performance of the consultant's professional services.

*(Act 2005-298, 1st Sp. Sess., p. 563, §11.)*

### **Section 34-9-43.2 Legislative Findings; Rulemaking Authority; Liability; Scope.**

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

(1) The power to make rules regulating the practice of dentistry and dental hygiene includes the power to prohibit unlicensed persons from practicing dentistry and dental hygiene and the power to regulate how licensed persons practice the same.

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

(3) The board is in the best position to determine the dental practices that affect and prioritize the health, safety, and welfare of the public.

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

(b) Subject to subsection (c), rules adopted under this section or Sections 34-9-18 and 34-9-43 may define and regulate the practice of dentistry and dental hygiene in a manner that prioritizes patient health, safety, and welfare, even if the rule has elements that appear anti-competitive or have an anti-competitive effect when the effect on public health, safety, and welfare is clearly demonstrated and documented by the board.

(c) A rule adopted under this section or Sections 34-9-18 and 34-9-43 may supplement or clarify any statutory definition but shall not conflict with any statute which defines the practice of dentistry and dental hygiene.

(d) Nothing in this section shall be construed to constrict or expand the current rights and privileges of any individual governed by the board beyond that which existed prior to the ruling in the United States Supreme Court decision *N.C. State Bd. of Dental Examiners v. FTC*, 135 S.Ct. 1101 (2015).

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

*(Act 2016-302, p. 765, §§1-3; Act 2018-274, §1.)*

**Section 34-9-44 Records to be Kept by Secretary-Treasurer; Copies and Certificates as Evidence.**

The secretary-treasurer of the board shall keep a registry in which shall be entered the names of all persons to whom license certificates have been granted under this chapter, the numbers of such license certificates, the dates of granting the same and other matters of records, and he or she shall keep a true and correct copy of the minutes of all board meetings, and the book so provided and kept shall be the official book of records. A copy of the records or a copy of the records certified by the secretary-treasurer and under the seal of the board shall be admitted in any of the courts of this state as prima facie evidence of the facts contained in the records and in lieu of the original thereof. A certificate under the hand of the secretary-treasurer and the seal of the board that there is not entered in such record books the name and number of and date of granting such license certificate to a person charged with a violation of any of the provisions of this chapter shall be prima facie evidence of the facts contained therein. Such certificates shall be admitted in any of the courts of this state in lieu of the records of the board. The original books, records, and papers of the board shall be kept at the office of the secretary-treasurer of the board, which office shall be at such place as may be designated by the board.

*(Acts 1959, No. 100, p. 569, §6; Acts 1965, 3rd Ex. Sess., No. 25, p. 232, §1; Act 2011-571, p. 1165, §1.)*

**Section 34-9-45 Board to Assist Prosecuting Officers.**

The board and its members and officers shall assist prosecuting officers in the enforcement of this chapter, and it shall be the duty of the board, its members and officers to furnish the proper prosecuting officers with such evidence as it or they may ascertain to assist them in the prosecution of any violation of this chapter, and the board is authorized for such purposes to make such reasonable expenditures from the funds of the board as it may deem necessary to ascertain and furnish such evidence.

*(Acts 1959, No. 100, p. 569, §28.)*

**Section 34-9-46 Subpoenas and Testimony.**

In all matters pending before it, the board shall have the power to issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, and records, documentary evidence and materials or other evidence. Any person failing or refusing to appear or testify regarding any matter about which he or she may be lawfully questioned or to produce any papers, books, records, documentary evidence, or materials or other evidence in the matter to be heard, after having been required by order of the board or by a subpoena of the board to do so, may, upon application by the board to any circuit judge of the State of Alabama, be ordered to comply therewith; and, upon failure to comply with the order of the circuit judge, the court may compel obedience by attachment as for contempt as in case of disobedience of a similar order or subpoena issued by the court. The president, in a writing filed with the board, may designate and authorize any member of the board to issue subpoenas, and any board member shall have authority to administer oaths to witnesses, or to take their affirmation. A subpoena or other process of paper may be served upon any person named therein, anywhere within the State of Alabama with the same fees and mileage by any officer authorized to serve subpoenas or such other process or paper in civil actions, in the same manner as is prescribed by law for subpoenas issued out of the circuit courts of this state, the fees and mileage and other costs to be paid as the board directs.

*(Acts 1959, No. 100, p. 569, §32; Act 2013-252, p. 626, §1.)*

**Section 34-9-47 Taking of Depositions.**

Depositions may be taken within or without the State of Alabama in the manner provided for by the laws of Alabama and the Alabama Rules of Civil Procedure for the taking of depositions in matters pending in the circuit courts of this state. The depositions shall be returnable to the board office, and the depositions may be opened or used by the parties to the proceedings the same as is provided for in matters pending before the circuit courts.

*(Acts 1959, No. 100, p. 569, §33; Act 2013-252, p. 626, §1.)*

**Article 3 Use Of Anesthesia By Dentists.**

**Section 34-9-60 Use of Local Anesthesia; Permit To Use General Anesthesia.**

Any individual licensed or permitted to practice dentistry in the State of Alabama shall be authorized to use anesthesia in accordance with all of the following:

- (1) All dentists are authorized to use local anesthesia.
- (2) Twelve months after May 29, 1985, no dentist shall use general anesthesia on an outpatient basis for dental patients, unless the dentist possesses a permit of authorization issued by the board.
  - a. In order to receive the permit, the dentist must apply on a prescribed application form to the board, submit an application fee, and produce evidence showing that he or she meets all of the following requirements:
    1. Has completed a minimum of one year of advanced training in anesthesiology and related academic subjects, or its equivalent, beyond the undergraduate dental school level in a training program as described in Part II of the guidelines for teaching the comprehensive control of pain and anxiety in dentistry; or
    2. Is a diplomate of the American Board of Oral and Maxillofacial Surgery, or is eligible for examination by the American Board of Oral and Maxillofacial Surgery, or is a member of the American Association of Oral and Maxillofacial Surgeons; or
    3. Employs or works in conjunction with a licensed physician who is a member of the anesthesiology staff in an accredited hospital, provided the anesthesiologist must remain on the premises of the dental facility until any patient given a general anesthetic regains consciousness and is discharged; and

4. Has a properly equipped facility for the administration of general anesthesia staffed with a supervised team of auxiliary personnel capable of reasonably assisting the dentist with procedures, problems, and emergencies incident thereto. Adequacy of the facility and competence of the anesthesia team shall be determined by the board as outlined in paragraph b.

5. Has successfully completed training in Advanced Cardiovascular Life Support (ACLS), and his or her auxiliary personnel have successfully completed training in Basic Life Support (BLS).

b. Prior to the issuance of the permit, the board, at its discretion, may require an on-site inspection of the facility, equipment, and personnel to determine if the requirements in paragraph a. have been met. This evaluation shall be carried out in a manner prescribed by the board. The evaluation shall be conducted by a team of three examiners appointed by the board. The team of examiners shall consist of at least one licensed dentist who holds a general anesthesia permit and at least two other persons as prescribed by the board pursuant to its rules. If the results of the initial evaluation are deemed unsatisfactory, the applicant may reapply for a permit subject to the correction of the deficiencies outlined in the original evaluation.

(3) Each dentist who is licensed to practice dentistry in the state on May 29, 1985, who desires to continue to use general anesthesia shall make application on the prescribed form to the board within 12 months of May 29, 1985. If he or she meets the requirements of this section, he or she shall be issued such a permit. If the applicant does not meet the requirements of paragraph (2)a., he or she may be entitled to a "general anesthesia permit" provided the applicant passes to the satisfaction of the board an on-site inspection as provided for in paragraph (2)b.

*(Acts 1985, No. 85-697, p. 1120, §2; Acts 1988, 1st Ex. Sess., No. 88-854, p. 327, §1; Act 2009-18, p. 43, §5; Act 2011-571, p. 1165, §1; Act 2023-362, §1.)*

#### **Section 34-9-60.1 Administration of Infiltration Anesthesia By Dental Hygienists; Permit Requirements.**

(a) The board may permit licensed dental hygienists to administer infiltration anesthesia under the direct supervision of a licensed dentist. The board may promulgate rules further limiting the administration of infiltration anesthesia by dental hygienists. In order to administer infiltration anesthesia, a dental hygienist shall possess a dental hygiene infiltration anesthesia permit issued by the board. To receive a dental hygiene infiltration anesthesia permit from the board, a dental hygienist shall apply on an application form approved by the board, submit the appropriate application fee, and have been engaged in the active practice of dental hygiene for the 12 months immediately preceding initial application. A dental hygienist applying for a dental hygiene infiltration anesthesia permit shall submit proof to the board that he or she has fulfilled at least one of the following qualifications:

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

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

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

*(Act 2018-274, §2.)*

**Section 34-9-61 Review and Renewal of Permit; Reevaluation of Credentials and Facility.**

(a) Any dentist holding a permit of authorization issued by the Board of Dental Examiners shall be subject to review and such permit must be renewed annually.

(b) The board shall, upon payment of a renewal fee, renew the general anesthesia permit annually unless the holder is informed in writing that a reevaluation of his or her credentials and facility is to be required. In determining whether such reevaluation is necessary, the board shall consider such factors as it deems pertinent including, but not limited to, patient complaints and reports of adverse occurrences. Such reevaluation shall be carried out in the manner described in paragraph b. of subdivision (2) of Section 34-9-60.

*(Acts 1985, No. 85-697, p. 1120, §3; Acts 1988, 1st Ex. Sess., No. 88-854, p. 327, §1; Act 2009-18, p. 43, §5.)*

**Section 34-9-62 Certification in Cardiopulmonary Resuscitation.**

Any dentist using general anesthesia, and his or her auxiliary personnel shall be currently certified in cardiopulmonary resuscitation.

*(Acts 1985, No. 85-697, p. 1120, §4.)*

**Section 34-9-63 Permit to use Parenteral Sedation.**

(a) The issuance of a permit for general anesthesia shall include the privilege of administering parenteral sedation in accordance with this section. The issuance of a permit for parenteral sedation shall include the privilege of administering intravenous sedation. All current intravenous sedation permit holders are entitled to a parenteral sedation permit subject to the renewal requirements and rules adopted by the board pursuant to this chapter. The term "parenteral sedation" shall not include the use or regulation of nitrous oxide.

(b)(1) No dentist shall use parenteral sedation on an outpatient basis for dental patients unless the dentist possesses a permit of authorization issued by the board. The dentist applying for or holding the permit shall be subject to on-site inspections as provided in paragraph (2)b. of Section 34-9-60.

(2) In order to receive the permit, the dentist shall meet all of the following requirements:

a. Apply on a prescribed application form to the board.

b. Submit a fee.

c. Produce evidence showing that he or she has satisfied each of the following requirements:

1. Received formal training in the use of parenteral sedation from a board approved training program, is competent to handle all emergencies relating to parenteral sedation, and is currently certified in cardiopulmonary resuscitation. The certification of the formal training shall specify the total number of hours, the number of didactic hours, and the number of patient contact hours. The required number of didactic hours and patient contact hours shall be determined by the board.

2. Equipped a proper facility for the administration of parenteral sedation, staffed with a supervised team of auxiliary personnel capable of reasonably assisting the dentist with procedures, problems, and emergencies incident to the sedation procedure.

(3) Adequacy of the facility and the competency of the sedation team shall be determined by the board.

(4) Prior to the issuance of a permit, the board may require an on-site inspection of the facility, equipment, and personnel to determine if the requirements of this section have been met. This evaluation shall be performed as provided in subsection (c).

(c)(1) Each dentist who is licensed to practice dentistry in the state and who desires to continue to use parenteral sedation shall make application to the board on the prescribed form. If he or she meets the requirements of this section, or currently holds a valid intravenous sedation permit, he or she shall be issued such a permit subject to all renewal and regulatory requirements of Section 34-9-64. If the applicant does not meet the requirements of subdivision(b)(2), or does not currently hold a valid intravenous sedation permit, he or she may be entitled to a parenteral sedation permit if the applicant passes an on-site inspection to the board's satisfaction. The inspection shall ascertain whether the dentist has a properly equipped facility for the administration of parenteral sedation, staffed with a supervised team of auxiliary personnel capable of reasonably assisting the dentist with incidental procedures, problems, and emergencies.

(2) In conducting the on-site inspection and evaluations required in this subsection, the board shall appoint a team of examiners. The team of examiners shall consist of at least one licensed dentist who holds a parenteral sedation permit and at least two other individuals as prescribed by the board pursuant to its rules.

(d) A dentist using parenteral sedation shall have successfully completed training in Advanced Cardiovascular Life Support (ACLS), and his or her auxiliary personnel shall have successfully completed training in Basic Life Support (BLS).

(e) Each dentist who has not been using parenteral sedation, pending complete processing of an application and a thorough on-site evaluation, may be granted one temporary provisional permit by the board at a time, if the applicant produces evidence that he or she has complied with this section. (*Acts 1985, No. 85-697, p. 1120, §5; Acts 1988, 1st Ex. Sess., No. 88-854, p. 327, §1; Acts 1989, No. 89-407, p. 868, §3; Acts 1993, No. 93-159, p. 241, §3; Act 2009-18, p. 43, §5; Act 2011-571, p. 1165, §1; Act 2023-362, §1.*)

#### **Section 34-9-64 Annual Renewal of Parenteral Sedation Permit; Reevaluation of Credentials and Facility.**

The board shall renew the parenteral sedation permit annually, upon payment of a renewal fee, unless the holder is informed in writing that a reevaluation of his or her credentials and facility is necessary. In determining whether the reevaluation is necessary, the board shall consider any factors as it deems pertinent including, but not limited to, patient complaints and reports of adverse occurrences. The reevaluation shall be performed as provided in paragraph b. of subdivision (2) of Section 34-9-60.

(*Acts 1985, No. 85-697, p. 1120, §6; Acts 1988, 1st Ex. Sess., No. 88-854, p. 327, §1; Acts 1989, No. 89-407, p. 868, §3; Acts 1993, No. 93-159, p. 241, §3; Act 2009-18, p. 43, §5.*)

#### **Section 34-9-65 Reports of Mortalities and Other Incidents Resulting from General Anesthesia or Sedation.**

(a) All licensees engaged in the practice of dentistry in the state must submit a complete report within a period of 30 days to the Board of Dental Examiners of any mortality or other incident occurring in the outpatient facilities of such dentist which results in permanent physical or mental injury of the patient as a direct result of general anesthesia or sedation techniques.

(b) The Board of Dental Examiners shall have authority to adopt rules and regulations implementing and enforcing the provisions of this section.

(c) Violation of any provision of this section shall subject the dentist to the penalties outlined in Section 34-9-18 and no order imposing those penalties shall be made or entered except after notice and hearing by the board as provided in Chapter 9, Title 34. Such order shall be subject to judicial review as provided by such chapter.

(*Acts 1985, No. 85-697, p. 1120, §7.*)

## **Article 4 Oral Conscious Sedation.**

### **Section 34-9-80 Definitions.**

As used in this article, the following terms shall have the following meanings:

- (1) ANALGESIA. The diminution or elimination of pain in the conscious patient.
- (2) ANXIOLYSIS. A pharmacological induced state, oral or inhalation, where a patient experiences a diminution of anxiety.
- (3) BOARD. The Alabama Board of Dental Examiners.
- (4) ENTERAL. Any technique of administration in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa (i.e., oral, rectal, sub lingual).
- (5) INHALATION. A technique of administration in which a gaseous or volatile agent is introduced into the pulmonary tree and the primary effect is due to absorption through the pulmonary bed.
- (6) LOCALIZED ANESTHESIA. The elimination of sensations, especially pain, in one part of the body by the topical application or regional injection of a drug.
- (7) ORAL CONSCIOUS SEDATION. A depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and to respond appropriately to physical stimulation or verbal command and that is produced by a pharmacological or nonpharmacological method or a combination thereof. Oral conscious sedation does not include the administration of a medication given only for the purpose of diminution of anxiety. An oral conscious sedation permit is not required for the use of inhalation nitrous oxide following the administration of a medication given only for the purpose of diminution of anxiety.

*(Act 2005-298, 1st Sp. Sess., p. 563, §1.)*

### **Section 34-9-81 Permits Required.**

In order to administer oral conscious sedation, a dentist must possess a general anesthesia permit, a parenteral sedation permit, or an oral conscious sedation permit from the board. In order to receive an oral conscious sedation permit, the dentist must apply on a prescribed application form to the board and submit an application fee. The dentist applying for the permit must show evidence that he or she has done at least one of the following:

- (1) Has completed an American Dental Association accredited postgraduate general dentistry or specialty residency program which included specific training in oral conscious sedation.
- (2) Has completed a minimum of 16 hours' training in oral conscious sedation in a course approved by the board.
- (3) Has certification of training in oral conscious sedation by any entity or organization approved by the board.

*(Act 2005-298, 1st Sp. Sess., p. 563, §2; Act 2009-18, p. 43, §5.)*

### **Section 34-9-82 Requirements for Treatment.**

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

- (1) Patients to be treated under oral conscious sedation must be suitably evaluated prior to the start of any sedation procedure. Using the American Society of Anesthesiologists Patient Physical Status classifications the dentist should determine that the patient is an appropriate candidate for oral conscious sedation.
- (2) The patient or guardian must be advised regarding the procedure associated with the delivery of any sedative agents and the appropriate written informed consent should be obtained.
- (3) Inhalation equipment used in conjunction with oral conscious sedation must be evaluated prior to use on each patient. Determination of adequate oxygen supply must be completed prior to use with each patient.

- (4) Appropriate verbal or written preoperative and postoperative instructions must be given to the patient or guardian.
- (5) Baseline vital signs should be obtained unless the patient's behavior prohibits such determination.
- (6) Pretreatment physical evaluation should be performed as deemed appropriate.
- (7) All medications and dosages used during an oral conscious sedation procedure must be recorded in the patient's record of treatment.
- (8) An emergency cart or kit must be readily accessible and must be available for immediate use during any sedation procedure.
- (9) The only classification of drugs for sedation to be administered enterally by a responsible adult procedurally outside the treatment facility is minor tranquilizers. Minor tranquilizers (i.e., hydroxyzine or diazepam) do not include chloral hydrate or narcotics.
- (10) Direct clinical observation and monitoring of the patient by a staff member must be continuous during the recovery period. The dentist shall assess the patient's responsiveness and must determine that the patient has met discharge criteria prior to leaving the office and the patient must be discharged into the care of a responsible person.
- (b) It shall be incumbent upon the operating dentist to insure that the patient is appropriately monitored. A sedated patient must be continuously kept under direct clinical observation by a trained individual. The sedated patient's oxygen saturation must be monitored by pulse oximetry. Chest excursions must be observed and the color of mucosa and skin continually evaluated. Back-up emergency services should be identified and a protocol outlining necessary procedures for their immediate employment should be developed and operational for each facility.
- (c) Any dentist utilizing oral conscious sedation procedures must have a properly equipped facility staffed with a supervised team of allied dental personnel who will be appropriately trained and capable of reasonably assisting the dentist with procedures, problems, and emergencies incident thereto. When inhalation equipment is used, in combination with orally administered sedatives, it must have a failsafe system that is appropriately checked and calibrated. The inhalation equipment must have the capacity for delivering 100 percent oxygen, and never less than 25 percent oxygen. A system for delivering oxygen must be available and must have adequate full-face mask and appropriate connectors, and be capable of delivering oxygen under positive pressure to the patient. Inhalation equipment must have a scavenging system. Suction equipment must be available that allows aspiration of the oral and pharyngeal cavities. A stethoscope and a sphygmomanometer with cuffs of appropriate size shall be immediately available.
- (Act 2005-298, 1st Sp. Sess., p. 563, §3; Act 2011-571, p. 1165, §1.)*

#### **Section 34-9-83 Requirements for Assistants.**

Allied dental personnel who assist dentists during oral conscious sedation procedures must be currently certified in cardiopulmonary resuscitation. During a sedation procedure, at least one additional person must be present in addition to the dentist. This may be a chair side dental assistant.

*(Act 2005-298, 1st Sp. Sess., p. 563, §4.)*

#### **Section 34-9-84 Report of Adverse Consequences.**

Any adverse consequence occurring with oral conscious sedation shall be reported to the board as required with general anesthesia and parenteral sedation.

*(Act 2005-298, 1st Sp. Sess., p. 563, §5.)*

**Section 34-9-85 Limits on Advertisements.**

The availability of oral conscious sedation, if advertised, shall be done without reference to sleep, snooze, or any other expression indicating a total or partial loss of consciousness.

*(Act 2005-298, 1st Sp. Sess., p. 563, §6.)*

**Section 34-9-86 On-Site Inspection.**

Prior to issuance of a permit for oral conscious sedation, the board may require an on-site inspection of the personnel, the facility, and the equipment to determine if the requirements of this article have been met. The on-site inspection shall be conducted by an investigator employed by the board pursuant to Section 34-9-43 or by such other individuals as prescribed by the board pursuant to its rules.

*(Act 2005-298, 1st Sp. Sess., p. 563, §7; Act 2023-362, §1.)*

**Section 34-9-87 Permit Limitations.**

A dentist who holds only an oral conscious sedation permit may not use or administer general anesthesia or parenteral sedation, or both, as those terms are used in this chapter.

*(Act 2005-298, 1st Sp. Sess., p. 563, §8.)*

**Section 34-9-88 Renewal of Permit.**

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

*(Act 2005-298, 1st Sp. Sess., p. 563, §9; Act 2009-18, p. 43, §5; Act 2018-274, §1.)*

**Section 34-9-89 Treatment of Patients Under 12 Years of Age.**

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

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

(2) Appropriately sized emergency equipment must be available.

*(Act 2005-298, 1st Sp. Sess., p. 563, §10; Act 2011-571, p. 1165, §1.)*

**Section 34-9-90 Violations and Penalties.**

Violation of any provision of this article shall subject the dentist to the penalties in Section 34-9-18, and no order imposing those penalties shall be made or entered except after notice and hearing by the board as provided by that section. Such order shall be subject to judicial review.

*(Act 2005-298, 1st Sp. Sess., p. 563, §12.)*



1 HB70

# ACT #2024 - 89

2 NVIYT8J-2

3 By Representative McCampbell

4 RFD: Health

5 First Read: 06-Feb-24

6 PFD: 30-Jan-24



HB70 Enrolled



1 Enrolled, An Act,

2

3 Relating to the Board of Dental Examiners of Alabama;

4 to add Section 34-9-10.01 to the Code of Alabama 1975; to

5 authorize the board to issue special volunteer licenses to

6 allow eligible nonresident dentists and dental hygienists to

7 practice in this state for a limited time under the

8 supervision of a licensed dentist in connection with an

9 organized charitable event; and to amend Section 34-9-16, Code

10 of Alabama 1975, to increase the annual dental hygiene

11 registration fee and to establish a fee for the issuance of

12 special volunteer licenses.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 34-9-10.01 is added to the Code of  
15 Alabama 1975, to read as follows:

16 §34-9-10.01 Special Volunteer License

17 (a) The board may issue a special volunteer license to  
18 practice dentistry or dental hygiene, or both, in this state  
19 pursuant to this section.

20 (b) The board may issue or deny issuance of a special  
21 volunteer license, and the denial, suspension, restriction,  
22 limitation, or revocation of a special volunteer license does  
23 not require a contested case proceeding under the Alabama  
24 Administrative Procedure Act.

25 (c) An applicant for a special volunteer license shall  
26 satisfy all of the following:

27 (1) Hold an active, full, and unrestricted license to  
28 practice dentistry or dental hygiene, as applicable, in



29 another state or the District of Columbia and not be subject  
30 to any pending disciplinary action by any applicable licensing  
31 authority.

32 (2) Submit to the board a completed application and a  
33 fee prescribed by the board.

34 (d) The scope of practice authorized by a special  
35 volunteer license to practice dentistry or dental hygiene, or  
36 both, shall be the scope of practice for dentists and dental  
37 hygienists prescribed by this chapter. This chapter and the  
38 rules adopted by the board pursuant to this chapter are  
39 applicable to any holder of a special volunteer license, and a  
40 holder of a special volunteer license is deemed to have  
41 submitted to the disciplinary jurisdiction of the board for  
42 purposes of any disciplinary action arising out of his or her  
43 activities within this state.

44 (e)(1) A special volunteer license authorizes the  
45 holder to provide dental or dental hygiene treatment, or both,  
46 as applicable, in connection with an organized charitable  
47 event at a specific location approved in advance by the board.  
48 Each organized charitable event shall have at least one  
49 Alabama licensed dentist who regularly practices dentistry in  
50 this state who shall be the responsible custodian of all  
51 record of treatment provided in connection with the event.

52 (2) All treatment provided by a holder of a special  
53 volunteer license shall be provided under the direct  
54 supervision of at least one Alabama licensed dentist who  
55 regularly practices dentistry in this state, and each record  
56 of treatment shall specifically identify the supervising



57 licensed dentist.

58 (3) The holder of a special volunteer license shall not  
59 solicit, receive, or accept any compensation, remuneration, or  
60 gratuity of any kind in connection with the provision of  
61 dental or dental hygiene treatment in this state other than  
62 reimbursement for actual expenses incurred.

63 (4) A holder of a special volunteer license is not  
64 eligible to receive an Alabama controlled substance  
65 certificate or any permit to perform sedation or anesthesia.

66 (f) A special volunteer license shall be valid for up  
67 to 15 calendar days, at the discretion of the board, within  
68 the 30-day period following the date of issuance and shall  
69 expire automatically by operation of law on the 31st day  
70 following issuance. The board, upon application, may renew a  
71 special volunteer license for no more than 15 calendar days  
72 each.

73 (g) The board may adopt rules as necessary to implement  
74 this section.

75 Section 2. Section 34-9-16 of the Code of Alabama 1975,  
76 is amended to read as follows:

77 "§34-9-16

78 The board shall establish and collect reasonable fees  
79 provided for in this chapter within the ranges set forth below  
80 and without having to engage in the rulemaking process:

81 Description	Not More Than
82 Dental Examination Application Fee	\$750.00
83 Dental Examination Fee	\$2,500.00

# HB70 Enrolled



84	Dental Examination Materials Fee	\$500.00
85	Dental Licensure by Credentials Application Fee	\$4,000.00
86	Dental Licensure by Regional Exam Application Fee	\$1,000.00
87	Special Purpose Licensure Fee	\$750.00
88	Special Purpose Licensure Renewal Fee	\$750.00
89	Dental Annual Registration Fee	\$500.00
90	Dental License Reinstatement Penalty	\$500.00
91	Dental Hygiene Program Application Fee	\$500.00
92	Alabama Dental Hygiene Training Permit Fee	\$450.00
93	Alabama Dental Hygiene Training Education Fee	\$600.00
94	Alabama Dental Hygiene Program Instructor Certification	
95	Course Fee	\$200.00
96		
97	Alabama Dental Hygiene Program Instructional Materials Fee	\$950.00
98	Dental Hygiene By Regional Exam Application Fee	\$500.00
99	Dental Hygiene Examination Application Fee	\$500.00
100	Dental Hygiene Examination Fee	\$600.00
101	Dental Hygiene Examination Materials Fee	\$400.00
102	Dental Hygiene Licensure by Credentials Fee	\$2,000.00
103	Dental Hygiene Annual Registration Fee	<del>\$75.00</del> <u>\$150.00</u>
104	Dental Hygiene License Reinstatement Penalty	\$200.00
105	Dental Hygiene Infiltration Anesthesia Permit Fee	\$250.00
106	Dental Hygiene Infiltration Anesthesia Renewal Fee	\$250.00
107	License Certificate Fee	\$500.00

# HB70 Enrolled



108	Duplicate or Replacement License Fee	\$150.00
109	Dental Faculty Teaching Permit Fee	\$350.00
110	Dental Faculty Special Teaching Permit Fee	\$500.00
111	Alabama Controlled Substance Permit Fee	\$400.00
112	Alabama Controlled Substance Permit Renewal Fee	\$400.00
113	General Anesthesia Permit Fee	\$1,500.00
114	General Anesthesia Permit Renewal Fee	\$750.00
115	Parenteral Sedation Permit Fee	\$1,500.00
116	Parenteral Sedation Permit Renewal Fee	\$750.00
117	Oral Conscious Sedation Permit Fee	\$250.00
118	Oral Conscious Sedation Permit Renewal Fee	\$250.00
119	Mobile Dental Application/Inspection Fee	\$1,500.00
120	Mobile Dental Renewal Fee	\$1,500.00
121	Mobile Dental Facility/Portable Dental Operation Application	
122	for Certificate of Registration Fee	\$750.00
123		
124	Mobile Dental Facility/Portable Dental Operation Renewal of	
125	Certificate of Registration Fee	\$500.00
126		
127	Alabama Impaired Dental Professionals Committee Annual	
128	Monitoring Fee	\$2,000.00
129		
130	<u>Special Volunteer License - Dentistry</u>	<u>\$150.00</u>
131	<u>Special Volunteer License - Dental Hygiene</u>	<u>\$150.00"</u>
132	Section 3. This act shall become effective on October	
133	1, 2024.	

HB70 Enrolled



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 29-Feb-24.

John Treadwell  
Clerk

Senate

09-Apr-24

Passed

APPROVED

4-17-2024

TIME

3:15 pm

GOVERNOR

Alabama Secretary Of State

Act Num....: 2024-89  
Bill Num....: H-70

Recv'd 04/18/24 08:34amKCW

**ADDITIONAL SIGNATURES OF CO-SPONSORS**

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**HOUSE ACTION  
(Continued)**

**REPORT OF 2<sup>ND</sup> STANDING COMMITTEE**  
 This bill having been referred by the House to its standing committee on \_\_\_\_\_  
 was acted upon by such a committee in session, and returned therefrom to the House with the recommendation that it  
 be Passed, w/amend(s) \_\_\_\_\_ w/sub \_\_\_\_\_  
 this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 \_\_\_\_\_, Chair

HOUSE OF REPRESENTATIVES  
 R. 3 at length and passed  
 Yeas 22 Nays 13 Abs 1  
 Date 2/24/04  
 JOHN TREADWELL, Clerk

**SENATE ACTION  
(Continued)**

This bill having been referred to the Committee on Rules pursuant to Senate Rule 23 is reported to the Senate for assignment to the Committee on:

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Signed (Committee Chair) \_\_\_\_\_

Date: \_\_\_\_\_  
 Referred

Committee \_\_\_\_\_

DATE: \_\_\_\_\_ 20\_\_\_\_

RE-REFERRED  RE-COMMITTED

Committee \_\_\_\_\_

This Bill was referred to the Standing Committee of the Senate on \_\_\_\_\_

and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) \_\_\_\_\_ w/sub \_\_\_\_\_ w/eng sub \_\_\_\_\_ by a vote of yeas \_\_\_\_\_ nays \_\_\_\_\_ abstain \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 \_\_\_\_\_, Chair

DATE: \_\_\_\_\_ 20\_\_\_\_

RF CAL

### Appendix III: Professional Services by Vendor

	FY2020	FY2021	FY2022	FY2023
<b><i>Alabama Dental Hygiene Program (ADHP)</i></b>				
<b><i>Video Recording/Services</i></b>				
Bolton Production Group	\$ 7,520.00	\$	\$	\$ 7,755.00
Allyson Peacock	100.00			
Dianna Clifton	345.00			
<b><i>ADHP Educational Director</i></b>				
Hussein S. Basma			22,000.00	24,000.00
Alvin Stevens, DMD	21,999.96	17,416.64		
<b><i>Review Readiness Process</i></b>				
American Council on Education				12,400.00
<b><i>Class Assistants</i></b>				
Carrie Hefner	667.50	431.25	1,046.25	757.50
Brooke Schwartz		322.50	1,710.00	
Brooklyn Williamson				150.00
<b><i>Clinical Assistants</i></b>				
Amy Volero				150.00
Andrew Lisy				150.00
Brandon Hardy				150.00
Brett Silvers				150.00
Brooke Schwartz				60.00
Efstratios Choreftakis				150.00
Ethan Madison				150.00
Farah Niyazi				150.00
Felipe Douriques				150.00
Hugo Zegarra				150.00
Jennifer DeMoura				150.00
Kevin Hahn				150.00
Layal Seman				150.00
Lincon Nguyen				150.00
Maysara Nassar				150.00
Nathan Dennis				150.00
Priscilla Sosa				150.00
Sarah Thompson				150.00
Steven Sheibley				150.00
Tyrus Smith				150.00

	FY2020	FY2021	FY2022	FY2023
<b><i>Instructors / Lecturers</i></b>				
Kevin Sims				300.00
Amy Kay Miller			50.00	
Antonia Veltcheva			50.00	
Ashwini Dangle			50.00	
Babatunde Michael Banwo		50.00		
Barry Goodspeed				2,400.00
Brett Silvers			50.00	
Bright Chang		50.00		
Celia Bonett		50.00		
Chetna Sharma			50.00	
Courtney Parker Kelly	50.00			
Dalila Fernandez		50.00		
Dwight King	50.00			
Fong Tsang			50.00	
Hugo Zegarro Baquerizo			50.00	
Hussein S. Basma	6,974.75	11,760.00	14,550.00	5,416.92
Ilya Marchenko			50.00	
Jaime Lin			50.00	
John Galdo	862.50	1,380.00	948.75	1,800.00
Kenneth Tilashalski, DMD	2,242.50	3,450.00	4,105.50	4,687.50
Kevin Hahn			50.00	
Lauren Miele			50.00	
Lincon Nguyen		50.00	50.00	
Linh Tran			50.00	
Louai Haddad			50.00	
Maninder Kaur	2,300.00	1,380.00		1,575.00
Martina Tawardrous			50.00	
Matthew D. Litz, DDS, LLC	1,322.50	1,575.00		1,800.00
Mengyi Shi		50.00		
Michael Boykin		2,070.00	2,070.00	1,800.00
Natalia Sztuk Vel Sztukowski			50.00	
Neha Jiwani			50.00	
Pamela Acosta Mejia			50.00	
Preston Adams			75.00	

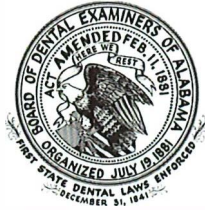
	<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
<b><i>Instructors / Lecturers (continued)</i></b>				
Richard Simpson	2,156.25			
Sara Kahi Mianji			50.00	
Sarah Pham			50.00	
Steven Sheibley		50.00		
Sydney Costello			50.00	
Thieu Vo		50.00		
Thomas Weatherford DMD	4,329.75			
Valerie Castro		50.00		
Wangsoo Lee			50.00	
Wayne Kerr	1,380.00	1,687.50	1,800.00	
<b><i>Conference Fees</i></b>				
University of Alabama - Birmingham	375.00			
<b><i>Security/Technical Support</i></b>				
University of Alabama - Birmingham	11,055.89			
<b><i>Processing Applications</i></b>				
Hilda Johnson		3,437.50		
<b><i>Supplies/Materials</i></b>				
Office Depot			450.60	1,461.85
Amazon				249.80
Alabama Correctional Industries				1,764.90
<b><i>Graduation Food/Supplies</i></b>				
Vicki Starnes				1,600.00
Wal-Mart				66.46
<b><i>Graduation Awards</i></b>				
United Trophy Company				192.00
<b>Total Alabama Dental Hygiene Program (ADHP)</b>	<b>63,731.60</b>	<b>45,360.39</b>	<b>49,856.10</b>	<b>73,086.93</b>

	FY2020	FY2021	FY2022	FY2023
<b><u>Administrative Services</u></b>				
<b><i>Online Voting Management</i></b>				
Election-America	3,356.40	5,915.14	3,440.31	3,290.31
<b><i>Onsite Anesthesia Services</i></b>				
Michael Koslin, DMD	13,066.92	12,000.00	12,000.00	24,000.00
<b><i>Consulting Services</i></b>				
Windom, Galliher & Associates	72,000.00	72,000.00	72,000.00	84,000.00
<b><i>Dental Professional Wellness Program</i></b>				
Michael Clay Garver, DMD	84,375.96	84,978.30	84,375.96	84,375.96
<b><i>Evaluations (Site Inspections)</i></b>				
Christopher Bannon				300.00
Christopher Mullenix		300.00	300.00	300.00
Dennis D Carr	2,100.00	1,500.00	900.00	5,400.00
Cody Christensen			300.00	
Douglas Denson				600.00
John Duke	300.00			
Dr. Gregory Zieman		300.00	600.00	300.00
Dr. Rakesh Shah			300.00	300.00
James Link				600.00
George W. Matthews, Jr.	300.00			
Jason Miller				600.00
John Terry Carlson				900.00
Luis Gonzalez, DMD	2,100.00	1,500.00	600.00	2,700.00
Matthew D. Litz, DDS, LLC	208.95	900.00	600.00	600.00
Michael Babston			900.00	
Robert Pfeefe, DMD			1,196.64	
Matthew Zieman				600.00
Michael Koslin, DMD	3,495.47	2,105.60	600.00	2,400.00
Robert Bondurant				300.00
Robert Pfeefe, DMD	300.00			900.00
Rocklin Alling	808.95	1,200.00	600.00	6,000.00
Rocky Shah	1,489.92			
Ryan S. Sheppard			300.00	
Sohrob Sotoudehnia				300.00
Warren W. Arrasmith	300.00	900.00	600.00	4,200.00

	<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
<b><i>Accounting and Audit Services</i></b>				
Kellum, Wilson & Associates, PC	12,500.00	18,243.75	12,500.00	12,500.00
<b><i>Memberships/Dues/Subscriptions</i></b>				
Alabama Association of Regulatory Boards	975.00	1,275.00	1,295.00	1,500.00
Alabama State Bar	350.00		975.00	
American Association of Dental Boards	3,145.50	5,560.00	8,540.00	7,980.00
American Association of Dental Administrators		1,175.00	375.00	
Birmingham Bar Association	440.00	140.00	140.00	70.00
Dr. Marshall Williams	350.00			
Federation of Association of Regulatory Southern Conference of Dental Deans and Examiners	475.00	1,250.00	1,050.00	175.00
State of Alabama Legislative Reference Service	200.00			
	60.00			
Citrix Systems		4,800.00	4,800.00	
Donna Dixon		187.50	175.00	332.00
Sherry Campbell		150.00		
<b><i>Information and Research Services</i></b>				
Alabama Law Enforcement Agency	1,200.00	900.00	300.00	2,400.00
State of Alabama Legislative Reference Service		190.00		
<b><i>Website Maintenance</i></b>				
Choopa, LLC				1,012.60
Rocket Town Media				300.00
GoDaddy			899.98	
<b>Total Administrative Services</b>	<b>203,898.07</b>	<b>217,470.29</b>	<b>210,662.89</b>	<b>249,235.87</b>
<b><u>Legal Services</u></b>				
<b><i>Attorney Services</i></b>				
Lightfoot, Franklin, & White	14,126.08	84,320.52	26,022.19	97.50
Fortif Law Partners, LLC		3,720.00	31,449.75	115,125.01
Alabama Attorney General's Office		1,665.00	7,945.44	1,324.60
<b><i>Database/Usage/Services</i></b>				
Westlaw	3,083.00	3,809.00	3,795.75	4,077.00
Alacourt	1,893.50	1,965.01	1,824.54	1,812.44

	<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
<b><i>Hearing Officer</i></b>				
Aaron L. Dettling, LLC	672.00			
<b><i>Expert Witness</i></b>				
Pamela Sims				966.67
Warren W. Arrasmith				300.00
Dr. James Broome			600.00	
Stephen Mitchell		2,000.00		
<b><i>Case Review</i></b>				
Mark McIlwain			1,800.00	
<b>Total Legal Services</b>	<b>19,774.58</b>	<b>97,479.53</b>	<b>73,437.67</b>	<b>123,703.22</b>
<b>Total Professional Services</b>	<b>\$287,404.25</b>	<b>\$360,310.21</b>	<b>\$333,956.66</b>	<b>\$446,026.02</b>

## Appendix IV: Board Members



## Board of Dental Examiners of Alabama

2229 Rocky Ridge Road, Birmingham, AL 35216

205.985.7267

[www.dentalboard.org](http://www.dentalboard.org)

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February 5, 2024

Ms. Charnelle Martin  
Alabama Examiners of Public Accounts  
401 Adams Avenue, Suite 280  
Montgomery, AL 36104-4338

*Ref: Current Board Members, Term, City*

Ms. Martin,

Pursuant to your Sunset Review audit, Item number 2, dated January 30, 2024, I am submitting a list of all current board members and requested information. Our board consists of 5 dentists elected by active Alabama-licensed dentists; 1 dentist appointed by the Alabama Dental Society; and 1 dental hygienist elected by active Alabama-licensed dental hygienists. Our board members serve 5 year terms.

### Current board members:

- Dr. Roberto Pischek, President
  - Robertsdale, AL
  - Term: October 2019-October 2024
- Dr. Melodie Jones, Vice President
  - Montgomery, AL
  - Term: October 2020-October 2025
- Dr. Marshall Williams, Secretary/Treasurer
  - Birmingham, AL
  - Term: October 2019-October 2024
- Dr. Mark McIlwain, Board Member
  - Sheffield, AL
  - Term: October 2022-October 2027
- Dr. Kevin Sims, Board Member
  - Birmingham, AL
  - Term: November 2022-October 2026
- Dr. Holt Gray, Board Member
  - Bessemer, AL
  - Term: October 2023-October 2028



## Board of Dental Examiners of Alabama

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- Mrs. Sandra Kay Alexander, RDH
  - Rainbow City, AL
  - Term: October 2020-October 2025

Respectfully submitted,

W. Blake Strickland  
Executive Director

## Appendix V: Board's Response



## Board of Dental Examiners of Alabama

2229 Rocky Ridge Road, Birmingham, AL 35216

205.985.7267

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July 25, 2024

Dixie Thomas, Director of Operational Audits  
Examiners of Public Accounts  
401 Adams Avenue, Suite 280  
Montgomery, AL 36104-4338

*Ref: Response to Sunset Report*

Dear Ms. Thomas,

Thank you for the opportunity to provide a response to the Board's Sunset Report regarding significant issues/prior significant issues identified during our recent audit. I know the process is labor intensive and the Board, staff, and I appreciate the professionalism of the examiners during this process. I was pleased to see that all of our prior significant issues have been resolved other than the legislative suggestions, which are an ongoing project.

To appropriately address the report, the individual findings are listed below with the Board's response following. The Board stands willing to continue to engage with your office to discuss and resolve as many issues as possible.

### **Significant Issue 2024-001:**

*The minutes of seventy-one Board meetings were reviewed and the following issues were noted:*

- *The location of the meeting was not recorded in the minutes fourteen times*
- *The minutes of three meetings reflect participation and voting by a Board member, not listed as present at the meeting*
- *The minutes do not reflect the Board's approval of the promotion of an investigator to the Board's Interim Executive Director*

The Board acknowledges that, for 14 of the 71 minutes reviewed by the examiners, the physical location of the meeting was inadvertently omitted. Upon learning of the missing language from the examiners, the staff immediately revised the identified board minutes from those meetings and re-posted them on our website with a notation identifying the revisions.

The Board acknowledges that there were apparent scrivener's errors in three of the 71 board minutes reviewed by the examiners. The staff members responsible for taking notes during board meetings will ensure a review of the minutes final approval by the Board and prior to posting to our website.

Due to the unexpected resignation of the previous executive director, the executive officers of the Board asked the board's investigator, Blake Strickland, to serve as the interim executive director until such time that a new job description for the position could be authored. Mr. Strickland served as the interim executive director and investigator for the Board. Though the interim appointment



## Board of Dental Examiners of Alabama

2229 Rocky Ridge Road, Birmingham, AL 35216

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was mentioned in Mr. Strickland's Executive Director's Report during the March 3, 2022 board meeting, the Board acknowledges that the appointment was not more formally noted in the board minutes.

### Significant Issue 2024-002:

*Based on the review of minutes of the minutes of the Board's meetings, it was noted the Board waived the following fees without statutory authority.*

- *On December 2, 2021, the Board waived the mobile clinic permit fee for three individuals.*
- *On December 8, 2023, the Board waived the application fee for a mobile dental facility and the monitoring fee for the final year of the Wellness Committee's deferral program for one hygienist.*
- *On February 9, 2024, the Board waived the application fee for a mobile dental facility.*

The Board acknowledges that, during the audit period, it did waive certain mobile clinic permit fees and other application fees. **All of the waived fees were in connection with organized charitable events at which dentists and dental hygienists provided free or low-cost dental care to Alabama residents who were otherwise unable to afford care.** The Board understood that its governing statutes authorized it to impose certain *statutory maximum* fees (see Ala. Code § 34-9-16), and that public agencies generally possess some leeway to waive or reduce fees when that action is clearly undertaken for a public purpose and in the public interest. See, e.g., Ala. Op. Atty. Gen. No. 2022-010 ("A municipality may, therefore, exercise discretion in determining whether to assess fees, and whether to reduce or eliminate fees for providing solid waste collection or disposal services. Such decisions must be reasonable and valid, and not arbitrary or discriminatory."); No. 79-00039 (counties may provide free or reduced-cost trash pickup to elderly residents). If the Dental Practice Act does not permit the Board to exercise its discretion in this manner, then the Board respectfully requests that the Legislature remedy this.

The Board also acknowledges that, during the audit period, it did waive the Wellness Committee monitoring fee for one dental hygienist who was under monitoring by the Wellness Committee. The Board believes that it did so in good faith and consistent with its statutory "duty and obligation . . . to promote the early identification, intervention, treatment, and rehabilitation of individuals . . . licensed to practice in the State of Alabama, who may be impaired by reason of illness, inebriation, excessive use of drugs, narcotics, controlled substances, alcohol, chemicals, or other dependent forming substances, or as a result of any physical or mental condition rendering such person unable to meet the standards of his or her profession." Ala. Code § 34-38-2 (1975). That same statute expressly grants the Board "discretion" to "refrain from taking or continuing disciplinary action" against such individuals. *Ibid.* The Board regularly faces delicate situations involving the recovery of impaired licensees, and in some situations, reducing or waiving a fee clearly promotes the rehabilitation of the individual. The Legislature has declared that such



## Board of Dental Examiners of Alabama

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rehabilitation is in the public interest. Again, if the Dental Practice Act does not permit the Board to exercise its discretion in this manner, then the Board respectfully requests that the Legislature remedy this.

The Board notes that no evidence has been found that the Board has exercised its authority to impose fines, costs, or fees in a way that is self-interested, exploitative, or abusive to the public in any way.

### **Significant Issue 2024-003:**

*The Board met twelve times to discuss legislative initiatives. While the Board posted the requisite notice for the twelve meetings to the Secretary of State's website, there were no minutes kept and provided for review for ten of the twelve meetings as required by the Open Meetings Act.*

The Board acknowledges that, while certain Legislative Work Sessions were appropriately posted as public meetings on the web site of the Secretary of State, formal minutes for several of those meetings were not published. This issue did not recur after it was brought to the attention of Director Strickland at the March 3, 2022 board meeting by the agency's legal counsel.

### **Significant Issue 2024-004:**

*The Board did not post requisite notice of meetings held on October 11, 2022, November 4, 2022, and February 10, 2023, on the Secretary of State's website.*

The Board acknowledges that three (3) monthly board meetings were inadvertently not advertised on the Secretary of State's website, as required. These meetings were posted on the Board's website. Due to several staffing changes during the time frames identified by the examiners, this task was inadvertently overlooked. Protocols have been established to ensure that this error does not recur.

### **Significant Issue 2024-005:**

*The Board did not post vacancy notices forty-five days prior to the expiration of seven Board members' terms.*

The Board acknowledges that it failed to notify the Secretary of State of the information required by Ala. Code § 36-14-17. The Board has fully remedied this deficiency, and all of the information required by this Section is now publicly available and searchable at



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<https://www.boards.alabama.gov/>. The Board appreciates the Examiners bringing this oversight to its attention.

### **Significant Issue 2024-006:**

***At the time of testing, the Board had not published, on a quarterly basis, financial information, or other pertinent information on its website as required.***

Upon being notified by the examiners that the Board's financial reports were not posted along with the board minutes for a number of board meetings, the staff corrected the issue. All missing financial reports are now published on the website to current date.

The Board acknowledges that a stand-alone fee schedule was not provided on our website. The staff has corrected that issue by posting a current fee schedule that itemizes the statutory maximum fees, along with the amounts currently assessed. See <https://dentalboard.org/wp-content/uploads/2024/07/Fee-Schedule-2024-Final.pdf>.

Additionally, the Board acknowledges that it did not publish a bare "list of all individuals licensed to practice" as prescribed by the strict text of Ala. Code § 34-9-43(a)(11). Like many professional licensing boards in Alabama, however, the Board has long provided a "License Look-up" link on its website where the public can search its entire database for a licensee by name and/or license number and obtain a range of public information beyond a simple list of names. (See [https://bdeal.igovsolution.net/Online/Lookups/Individual\\_Lookup.aspx](https://bdeal.igovsolution.net/Online/Lookups/Individual_Lookup.aspx)) The Board believes that the online look-up function satisfies and in fact exceeds the requirements of Section 34-9-43(a)(11). In order to address the examiners' concerns, however, a stand-alone list of all licensees' names has been added to the Board's website.

The Board will ensure this information is maintained on our website in the suggested format.

### **Significant Issue 2024-007:**

***The Board's Leave Accrual and Usage spreadsheets were reviewed and compared to the employees' timesheets. This review revealed errors related to the Board's leave records not corresponding with leave amounts reflected on employees' timesheets.***

The Board acknowledges that a clerical error resulted in two staff members not having annual leave subtracted from their annual leave balance correctly during the audit period (Staff member #1: 3 hours; staff member #2: 8 ½ hours). Once the examiners brought it to the staff's attention it was corrected. Documentation of the correction was submitted to the examiners. This occurred



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during a staffing change within the agency and protocols have been established to mitigate this type of error in the future.

### **Significant Issue 2024-008:**

***The Board did not compute and record compensatory time correctly for three employees.***

The Board acknowledges that a clerical error resulted in several employees' compensatory time being incorrectly computed during the audit period. Once the examiners brought it to the staff's attention the errors were corrected for each of the identified employees. Documentation of the correction was submitted to the examiners. This occurred during a staffing change within the agency and protocols have been established to mitigate this type of error in the future.

### **Significant Issue 2024-009:**

***The Board incorrectly paid two employees for accumulated sick leave upon separation from the Board.***

The Board acknowledges that two employees that separated from employment by retirement and resignation, respectively, during the audit period were paid for accumulated sick leave incorrectly. Both former employees were contacted and have repaid the overpayment to the Board. Documentation of those payments was submitted to the examiners. This occurred during a staffing change within the agency and protocols have been established to mitigate this type of error in the future.

### **Significant Issue 2024-0010:**

***The Board granted employees July 3, 2023 as a paid holiday that is not authorized by state law and was not designated as a holiday by the Governor. The Board's Personnel Policy Employee Handbook states, "The Board office will close on all legal holidays as set by state law and other days as designated by the Governor."***

The Board acknowledges that it authorized most Board staff to take July 3, 2023 off with pay. However, the Board Office was not closed. As quoted, in part, by the examiners, "...The Board office will close on all legal holidays..." The board office remained open on July 3, 2023 with a staff member answering calls, responding to emails, processing mail, and available to interact with any licensee or member of the public who may arrive at the office to conduct business. If it is determined that the Board did not have authority to provide an additional day of paid time off on July 3, 2023, the Board will make appropriate adjustments to the annual leave balances of the employees who took the day off.



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### **Significant Issue 2024-0011:**

***The Board purchased seven meals totaling \$1,541.87 for Board members, staff members, and guests attending Board meetings.***

The Board acknowledges that it has used public funds to provide lunches for Board members and other essential persons, in accordance with its understanding of many longstanding Attorney General opinions that authorize the use of public funds in this fashion in appropriate circumstances. Ala. Op. Att’y Gen. No. 2001-102 (Feb. 27, 2001) (“Accordingly, it is the opinion of this Office that the State Personnel Department may provide meals and/or refreshments during the three meetings described in this request as long as the meals and refreshments are incidental to the meetings. Persons receiving meals at these meetings should not claim the state meal allowance.”); Ala. Op. Att’y Gen. No. 2003-137 (May 6, 2003) (“It is the Opinion of this Office that meals may be provided at certain meetings of the Alabama Board of Nursing if those meals are offered so that business may be conducted during a mealtime, or the meals are incidental to a business meeting. Refreshments may be provided as long as the meetings extend through lunch or a mealtime.”).

By way of background, the Board has traditionally met on two days each month: on selected Thursday evenings and then on the following Friday mornings. Although it is occasionally necessary to arrange meetings in this fashion, it results in the Board members being compensated for *two* days of meetings (generally, \$600.00 per Board member), as opposed to only *one* day (\$300.00 per Board member).

More recently, the Board has tried to condense its entire monthly meetings (including any contested case hearings) into just one day (Friday). This results in substantial monetary savings to the public in the form of reduced Board compensation, but it also requires the Board to work much longer on its one meeting day. Because of this, “lunch breaks” are not possible, whether for Board members nor for staff essential to the conduct of the public meeting (e.g., Executive Director, Recording Secretary, General Counsel). The public necessity of these individuals being present for the meeting does not depend upon whether or not they are entitled to a per diem amount for in-state travel. The Board certainly agrees, however, that no person who is provided a “working lunch” should also claim a meal allowance, and to the extent that that occurred, that is an inadvertent error that should be corrected.

The Board believes it has acted in good faith and in accordance with relevant opinions of the Attorney General. The Board has no interest in providing costly meals to anyone, but seeks only to carry out its public functions efficiently and appropriately.



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### Significant Issue 2024-0012:

***The Board purchased food and food supplies totaling \$1,666.46 for the Alabama Dental Hygiene Program's Pinning Ceremony.***

The Board acknowledges that it has provided light refreshments at the graduation ceremony for the Alabama Dental Hygiene Program ("ADHP").

The Board fully acknowledges and agrees that refreshments cannot be provided at "social gatherings." But the ADHP graduation ceremony is not, in the Board's view, a "social gathering." It is an official event formalizing the participants' successful completion of the Board's official training program leading to licensure as a dental hygienist, and it has been the Board's practice to provide refreshments at this function for many years. The Board further understands that the determination as to whether a particular expenditure serves a public purpose is to be made by the Board. *See Ala. Op. Att'y Gen. No. 2023-006 (Nov. 4, 2022)* ("Whether the expenditure is made for a public purpose is a factual question to be determined by the governmental body making the expenditure by looking to the statutes setting forth that body's authority.").

### Significant Issue 2024-0013:

***During the examination period, the Board of Dental Examiners purchased two vehicles without going through the process of getting sealed bids and awarding the contract to the lowest bidder as required or using a current state contract.***

The Board acknowledges the purchase of two (2) vehicles, one on December 5, 2019 and one on October 11, 2022, to be used by the investigator and the executive director, who also assists with investigative/inspection functions. (The Board's fiscal responsibility is evidenced by the fact that both of these vehicles remain in official service today, and one of them just recently had its engine replaced.) The Board respectfully disagrees with the Examiners' contention that these vehicles were purchased "without going through the process of getting sealed bids and awarding the contract to the lowest responsible bidder as required or using a current state contract." To the contrary, both of the subject vehicles were purchased using "State of Alabama T191 Non-Alternative Fuel Vehicle Master Agreements" for law enforcement vehicles.

The vehicle purchased on December 5, 2019 was purchased under Master Agreement "MA 999 16000000020", which showed a begin date of 02/12/2016 and expiration date of 11/15/2020. A modification to the agreement later showed an effective date of 04/01/2020 through 04/01/2021.

The vehicle purchased on October 11, 2022 was purchased under Master Agreement "MA 2100000000-999-1", which showed a start date of 10/19/2021 and an end date of 10/14/2022.



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The examiners advised that the master agreement utilized by the Board to purchase these vehicles was not valid during this time. The Board believes that it exercised its due diligence in making the purchases by using the published master agreements included on the “state bid” list, which at the time of the purchases showed valid dates.

### **Significant Issue 2024-0014:**

*The Board did not go through the Request for Proposal (RFP) process when procuring professional services and/or did not execute a contract for the following services:*

The Board acknowledges that formal contracts were not completed for the following:

Auditing/Accounting Services: The Board utilized an ongoing Letter of Engagement for accounting services from Kellum, Wilson & Associates which had been in place for almost 15 years. Most of the time covered by the audit period preceded the effective date of the State’s new procurement law. When the Board decided to explore alternatives for a different accounting firm in 2023, we utilized a competitive RFP process under the direction of the Chief Procurement Officer to contract with a new firm.

Video Production: The Board provides the Alabama Dental Hygiene Program (ADHP) annually. This 9-month accelerated certificate program seats an average of 200 students per year and graduates from 125-150 annually into Alabama’s workforce. The necessary training videos posted on our website for the students and their sponsoring dentists are updated approximately every 4-5 years with current information. The Board maintained the same vendor for these services due to their familiarity in videoing dental procedures and working in a clinical environment. Their services have been utilized by the Board for the past 10 years.

Evaluation Services: The Board utilizes licensed dentists to assist with sedation/anesthesia facility inspections and anesthesia evaluations, per our statute and administrative code. These evaluators must have/maintain current permits in Parenteral Sedation (IV sedation) and General Anesthesia and have experience in those areas prior to being selected by the chair of our Anesthesia Committee to serve in these specialized positions. After the passage of the procurement law, the Board has taken steps to ensure that every evaluator has a contract with our board.

Lecture Services: Regarding a board member providing lecture services for the ADHP, the contracted faculty member was unable to present their lecture during the 2022-2023 ADHP, and no alternate contracted instructors were available, resulting in an emergency situation. A Board member, an actively practicing periodontist, volunteered to cover the lecture for the 200+ students so the class would not fall behind their accelerated schedule. The Board member was compensated for performing official Board duties at the approved rate for official Board member time (up to \$300/per day, per diem and mileage) pursuant to Ala. Code § 34-9-41 and Ala. Admin. Code r. 270-X-1-.08. He did not receive instructor pay which is covered through contracts.



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**Former Employee/Independent Contractor:** The former ADHP-Coordinator retired and was asked to come back on a part-time basis to help acclimate/train her replacement. The former employee assisted in processing over 250 applications for the ADHP and setting up the program along with the new employee.

### **Significant Issue 2024-0015:**

*The Board does not have effective internal controls in place to ensure payments are made in accordance with the contract's specified terms and conditions.*

The Board acknowledges that the previously contracted accounting firm, Kellum, Wilson & Associates, received payment above the agreed upon amount in their Letter of Engagement. The Board has entered into a contract with a new accounting firm and has internal controls in place to ensure appropriate payments for their services.

### **Significant Issue 2024-0016:**

*The Board's asset listing did not reflect the purchase of five laptops, two sofas, and a conference table totaling \$11,572.96.*

In reviewing the Board's internal property records, as well as AssetWorks (the state auditor's online property database), the Board believes that all of the personal property identified by the examiners is appropriately documented in both locations. The Board would be happy to explore this issue further with the examiners to confirm full compliance. Additionally, the Board has passed all of the State Auditor's on-site property audits with 100% compliance for a number of years.

### **Significant Issue 2024-0017:**

*The Board purchased supplies and/or services without receiving procurement delegation authority from the Chief Procurement Officer (CPO) of the Alabama Department of Finance, Division of Procurement during the period of October 1, 2022 to current date.*

The State's new procurement law took effect on October 1, 2022. In due time, the new procurement law promises to streamline procurement for all State agencies, and to bring great efficiencies to State government. Fully implementing the new law, however, has been a work in progress. Since the new law went into effect, the Board has sought to work collaboratively with the Chief Procurement Officer. Where possible, Requests for Proposals for personal services have been issued and used for procurement under the superintendence of the Chief Procurement Officer.



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Until very recently, however, the Chief Procurement Officer's unified online platform for state procurement, "Alabama Buys," has not been available to the Board, because the Board's public funds, by express statutory language, are not deposited into the State Treasury. The Chief Procurement Officer has built systems to address this issue, and, in the Spring of 2024, the Chief Procurement Officer provided non-STAARS agency training to the Board staff.

The Board expects to be a full participant in Alabama Buys in the near future.

### **Significant Issue 2024-0018:**

***Board members were not compensated in accordance with the Board's Administrative Rule 270-X-1-.08 when actively engaging in the duties of the office or when a sitting board member observes a licensing examination.***

The Board acknowledges confusion by board members regarding \$300/per day compensation for board-related activities versus \$100/per hour up to a maximum of \$300/ per day compensation for board members for case reviews. The staff have proactively changed the reporting forms for compensation to be easier to distinguish between the two types of compensation. Additionally, the staff will review board member submissions for observing licensing exams to ensure that only \$100/per day compensation is provided.

The Board understands that this finding relates only to the accuracy of supporting documentation, and that there were no underpayments nor overpayments to Board members in relation to this finding.

### **Significant Issue 2024-0019:**

***Eight of twenty-four complaint files reviewed showed no evidence of a resolution letter was sent from the Board with the Board's decision about the complaint. Once complaint file showed no evidence that letter of receipt acknowledging the complaint was sent to the complainant.***

The Board acknowledges that in the eight (8) cases identified by the examiners, no resolution letters were sent to the complainants, per our Complaint and Investigation Policy. However, in reviewing the additional references in this finding, it was noted that no decisions by the Board to issue Letters of Concern occurred during the audit period of October 1, 2019 through September 30, 2023 pursuant to Administrative Rule 270-X-5-.06. The Board does not use the "letter of concern" process outlined in this Rule, because it has determined that it does not have statutory authority to issue non-public resolutions of this nature.



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## Questionnaires

### **Significant Issue 2024-0020:**

The Board continues to work on legislation to address dental/dental hygiene interstate compacts to ensure the safety and needs of the public.

### **Significant Issue 2024-0021:**

The Board and staff continue to work with our licensees and other stake holders to ensure the highest possible dental service is provided to the public. The Board is unable to address insurance reimbursement-related issues and believes this issue can only be remedied through the Legislature.

### **Significant Issue 2024-0022:**

The Board has proactively reviewed the Alabama Dental Practice Act and administrative codes to modernize the language and work to include new technology and treatment options.

### **Significant Issue 2024-0023:**

The Board utilizes multiple platforms to keep licensees informed of changes, to include Constant Contact (mass email system) and the Board's website.

### **Significant Issue 2024-0024:**

The Board is unable to address the issue of wages.

### **Significant Issue 2024-0025:**

See response to *Significant Issue 2024-019*.

### **Significant Issue 2024-0026:**

All complaints received by the Board are thoroughly investigated and submitted to Board for final review and adjudication. One area of concern expressed by complainants is the Board's lack of jurisdiction to address fee disputes and/or refunds included in a number of complaints.

## **Status of Prior Significant Issues**

The Board continues to work with licensees and other stakeholders to address the need for tele-dentistry in Alabama. This process requires statutory changes, as well as changes to the administrative code.



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Again, thank you for the opportunity to provide this response to the Board's Sunset Report. Should you have any questions, please contact me.

Sincerely

W. Blake Strickland  
Executive Director

Cc: Aaron Dettling, Esq., General Counsel