

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2268 Session of 2012

INTRODUCED BY PAYTON, B. BOYLE, K. BOYLE, BRADFORD, BROWNLEE, CALTAGIRONE, DALEY, DAVIS, DERMODY, ELLIS, FRANKEL, GERGELY, GIBBONS, HANNA, W. KELLER, KIRKLAND, MURPHY, M. O'BRIEN, QUIGLEY, SAMUELSON, WATERS AND YOUNGBLOOD, MARCH 19, 2012

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MARCH 19, 2012

AN ACT

1 Amending the act of May 1, 1933 (P.L.216, No.76), entitled "An  
2 act relating to dentistry; defining and providing for the  
3 licensing and registration of dentists and dental hygienists,  
4 and for the revocation and suspension of such licenses and  
5 registrations, subject to appeal, and for their  
6 reinstatement; defining the powers and duties of the State  
7 Dental Council and Examining Board and the Department of  
8 Public Instruction; providing penalties; and repealing  
9 existing laws," further providing for definitions, for  
10 general powers of the State Board of Dentistry, for fees, for  
11 reason for refusal, revocation or suspension of license or  
12 certificate, for licensing of graduates of foreign dental  
13 schools, for employees and assistants, for penalties and for  
14 reporting of multiple licensure or certification.

15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

17 Section 1. The definition of "Practice of Dentistry" in  
18 section 2 of the act of May 1, 1933 (P.L.216, No.76), known as  
19 The Dental Law, amended December 16, 1992 (P.L.1222, No.160), is  
20 amended to read:

21 Section 2. Definitions.--A person engages in the "Practice  
22 of Dentistry," within the meaning of this act, who diagnoses,  
23 treats, operates on, or prescribes for any disease, pain or

1 injury, or regulates any deformity or physical condition, of the  
2 human teeth, jaws, or associated structures, or conducts a  
3 physical evaluation, or administers anesthetic agents, or uses  
4 ionizing radiation in the course of dental practice, or who  
5 fits, constructs, and inserts any artificial appliance, plate,  
6 or denture for the human teeth or jaws, or who holds himself or  
7 herself out as being able or legally authorized to do so. The  
8 term "Practice of Dentistry" does not include:

9 (a) The practice of any of the healing arts by duly licensed  
10 practitioners.

11 (b) The extracting of teeth or relieving pain by a licensed  
12 physician or surgeon in emergencies, or the making of  
13 applications for such purposes.

14 (c) The practice of dentistry by a duly licensed  
15 practitioner of dentistry of any other state or country, for the  
16 limited purpose of consultation with respect to any case under  
17 treatment in this Commonwealth, or of demonstrating before any  
18 duly authorized dental society in this Commonwealth.

19 (d) The practice of dentistry by a duly licensed  
20 practitioner of dentistry of any other state or country for the  
21 limited purpose of teaching, including clinical teaching, in a  
22 dental school or advanced dental education program in the  
23 Commonwealth approved by the board after [notification]  
24 application to the board for a restricted license and in  
25 accordance with board regulations. [Appointments shall not  
26 exceed four (4) years and may only be extended if the  
27 practitioner receives a license from the board.]

28 (e) The practice of dentistry in clinical departments and  
29 laboratories of dental schools and their affiliated facilities  
30 approved by the board in the Commonwealth, by bona fide students

pursuing a course of study leading to the degree of Doctor of Dental Surgery or Doctor of Dental Medicine.

(f) The practice of dentistry in a dental clinic operated not for profit for the duration of an internship, residency or other graduate training program approved by the American Dental Association Commission on Dental Accreditation or a dental anesthesiology training program that meets the standards of an accrediting body acceptable to the board, by persons having acquired the preliminary and professional education required for admission into the program, after notification to the board.

\* \* \*

Section 2. Section 3(j.2) and (m) of the act, amended December 27, 1994 (P.L.1361, No.160) and July 20, 2007 (P.L.327, No.51), are amended and the section is amended by adding a subsection to read:

Section 3. General Powers of the State Board of Dentistry.-- The State Board of Dentistry (hereinafter called the board) shall have the following powers and duties:

\* \* \*

(d.2) (1) To grant without examination a restricted license to teach dentistry within the facilities of a dental school in this Commonwealth, that is approved by the Commission on Dental Accreditation of the American Dental Association, to any duly qualified person, not less than twenty-one (21) years of age, of good moral character, not addicted to the use of intoxicating liquor or narcotic drugs, who:

(i) has successfully completed a specialty dentistry program or advanced dental training in a clinical field, that is approved by the Commission on Dental Accreditation of the American Dental Association, and:

1 (A) holds an appointment to the faculty of a dental school  
2 in this Commonwealth that is approved by the Commission on  
3 Dental Association of the American Dental Association to teach  
4 dentistry;

5 (B) is not licensed to practice dentistry in this  
6 Commonwealth;

7 (C) is licensed to practice dentistry by the proper  
8 licensing authority of another state, country or territory in  
9 which the standards for practicing and teaching are in  
10 accordance with, and approved by, the Commission on Dental  
11 Accreditation of the American Dental Association;

12 (D) has not failed an examination for a license to practice  
13 dentistry in this Commonwealth;

14 (E) has met educational requirements as set by the board by  
15 regulations; and

16 (F) submits a completed application, the supporting  
17 documents the board deems necessary to determine his  
18 qualifications and the prescribed fee.

19 (2) A restricted license shall entitle the licensee to  
20 engage in direct clinical teaching and supervision of care  
21 provided by students and residents, and practice clinical care  
22 in no more than one area of specialty within the educational  
23 facilities of a dental school in this Commonwealth that is  
24 approved by the Commission on Dental Accreditation of the  
25 American Dental Association.

26 (3) A licensed teacher of dentistry may receive additional  
27 compensation, to be paid by the dental school at which the  
28 teacher of dentistry is licensed to teach, for services provided  
29 in accordance with clause (2).

30 (4) Conditions of renewal, including continuing education,

1 shall be set by the board by regulations.

2 \* \* \*

3 (j.2) (1) To adopt, promulgate and enforce rules and  
4 regulations establishing requirements for continuing dental  
5 education to be met by persons licensed or certified under this  
6 act. The board shall approve sponsors of continuing education  
7 courses within one year of the effective date of regulations  
8 adopted to enforce this subsection. No credit may be given for  
9 courses in office management or practice building. The board may  
10 waive all or part of the continuing education requirement to a  
11 licensee who shows to the satisfaction of the board that he or  
12 she was unable to complete the requirement due to illness,  
13 emergency or hardship.

14 (2) The following requirements shall be satisfactorily  
15 completed in accordance with board regulations as a precedent to  
16 [biennial] renewal of a license or certification:

17 (i) Thirty credit hours for a person licensed to practice  
18 dentistry or licensed as a teacher of dentistry under clause  
19 (1)(i).

20 (ii) Twenty credit hours for a person licensed to practice  
21 dental hygiene. For a public health dental hygiene practitioner,  
22 five hours shall be public health-related courses.

23 (iii) Ten credit hours for a person certified to practice  
24 expanded function dental assisting.

25 (3) For the purposes of this subsection, one credit hour  
26 shall be defined as one clock hour of instruction.

27 \* \* \*

28 (m) To administer and enforce the laws of the Commonwealth  
29 relating to the practice of dentistry and dental hygienists and  
30 teachers of dentistry and certified expanded function dental

1 assistants, and to instruct and require its agents to bring  
2 prosecutions for unauthorized and unlawful practices.

3 \* \* \*

4 Section 2.1. Section 3.1 of the act, added July 11, 1996  
5 (P.L.657, No.113), is amended to read:

6 Section 3.1. Renewal of License and Restoration of Expired  
7 License.--(a) Any person whose license or certificate issued  
8 under this act has expired for failure to make biennial  
9 registration over a period not exceeding five years may have the  
10 license or certificate reinstated upon presentation to the board  
11 of satisfactory evidence of having completed the biennial  
12 educational requirements which he or she would have been  
13 required to complete if the license or certificate had not  
14 expired, and payment of the biennial registration fee as  
15 established by regulation of the board.

16 (b) Any person whose license or certificate has expired for  
17 failure to make biennial registration over a period of more than  
18 five years shall apply to the board and may be required to  
19 submit to a reexamination in accordance with section 3.

20 Section 3. Sections 4(a) and 4.1 of the act, amended  
21 December 27, 1994 (P.L.1361, No.160), are amended to read:

22 Section 4. Fees.--(a) The fee for an applicant for  
23 examination and licensure to practice dentistry or as a dental  
24 hygienist or certification for an expanded function dental  
25 assistant in this Commonwealth shall be fixed by the board by  
26 regulation. The fee for licensure as a teacher of dentistry in  
27 this Commonwealth shall be fixed by the board by regulation. It  
28 shall be the duty of all persons now qualified and engaged in  
29 the practice of dentistry and dental hygiene or as a certified  
30 expanded function dental assistant, or who shall hereafter be

1 licensed or certified by the board, to renew biennially with  
2 said board, and pay for each such biennial renewal a fee which  
3 shall be fixed by the board by regulation.

4 \* \* \*

5 Section 4.1. Reason for Refusal, Revocation or Suspension of  
6 License or Certificate.--(a) The board shall have authority, by  
7 majority action, to refuse, revoke or suspend the license of any  
8 dentist [or], dental hygienist or teacher of dentistry or  
9 certificate of an expanded function dental assistant for any or  
10 all of the following reasons:

11 (1) Failing to demonstrate the qualifications or standards  
12 for a license contained in this act or regulations of the board.

13 (2) Making misleading, deceptive, untrue or fraudulent  
14 representations.

15 (3) Practicing fraud or deceit in obtaining a license to  
16 practice dentistry [or], dental hygiene or as a teacher of  
17 dentistry or certificate for expanded function dental assisting  
18 or making a false or deceptive biennial renewal with the board.

19 (4) Having been found guilty of a crime or misdemeanor  
20 involving moral turpitude or having been found guilty of a  
21 felony in violation of the laws of this Commonwealth or any  
22 other state, territory or country. For purposes of this clause  
23 (4), the phrase "having been found guilty" shall include a  
24 finding or verdict of guilt, an admission of guilt or a plea of  
25 nolo contendere.

26 (5) Having a license to practice dentistry [or], dental  
27 hygiene or as a teacher of dentistry or certificate for expanded  
28 function dental assisting revoked, suspended or having other  
29 disciplinary action imposed or consented to by the proper  
30 licensing authority of another state, territory or country or

1 his application for license refused, revoked or suspended by the  
2 proper licensing authority of another state, territory or  
3 country.

4 (6) Violating any of the provisions of this act or of a  
5 lawful regulation promulgated by the board or violating a lawful  
6 order of the board previously entered by the board in a  
7 disciplinary proceeding.

8 (7) Knowingly maintaining a professional connection or  
9 association with any person who is in violation of this act or  
10 regulations of the board or knowingly aiding, assisting,  
11 procuring or advising any unlicensed person to practice  
12 dentistry [or], dental hygiene or as a teacher of dentistry or  
13 uncertified person for expanded function dental assisting  
14 contrary to this act or regulations of the board.

15 (8) Engaging in unprofessional conduct. For purposes of this  
16 clause (8), unprofessional conduct shall include any departure  
17 from, or failure to conform to, the standards of acceptable and  
18 prevailing dental or dental hygiene practice, practice of  
19 teaching dentistry and standard of care for expanded function  
20 dental assistants in which proceeding actual injury to the  
21 patient need not be established.

22 (9) Committing an act of gross negligence, malpractice or  
23 incompetence or repeated acts of negligence, malpractice or  
24 incompetence.

25 (10) Engaging in false, misleading or deceptive advertising.

26 (11) Being unable to practice dentistry or as a dental  
27 hygienist or as a teacher of dentistry or as an expanded  
28 function dental assistant with reasonable skill and safety to  
29 patients by reason of illness, drunkenness, excessive use of  
30 controlled substances, chemicals or any other type of material,



1 or as the result of any mental or physical condition. In  
2 enforcing this clause (11), the board shall, upon probable  
3 cause, have authority to compel a dentist, dental hygienist, teacher of dentistry or expanded function dental assistant to  
4 submit to a mental or physical examination by physicians  
5 designated by the board. Failure of a dentist, dental hygienist, teacher of dentistry or expanded function dental assistant to  
6 submit to such examination when directed by the board, unless  
7 such failure is due to circumstances beyond his control, shall  
8 constitute an admission of the allegations against him,  
9 consequent upon which a default and final order may be entered  
10 without the taking of testimony or presentation of evidence. A  
11 dentist, dental hygienist, teacher of dentistry or expanded  
12 function dental assistant affected under this clause (11) shall,  
13 at reasonable intervals, be afforded an opportunity to  
14 demonstrate that he or she can resume a competent practice of  
15 dentistry, dental hygiene or as a teacher of dentistry or as an  
16 expanded function dental assistant with reasonable skill and  
17 safety to patients.

20 (b) When the board finds that the license or certificate of  
21 any person may be refused, revoked or suspended under the terms  
22 of this section, the board may:

23 (1) Deny the application for license or certificate.

24 (2) Administer a public reprimand.

25 (3) Revoke, suspend, limit or otherwise restrict a license  
26 or certificate as determined by the board. Unless ordered to do  
27 so by a court, the board shall not reinstate the license of a  
28 person to practice dentistry, or as a dental hygienist or as a  
29 teacher of dentistry or certificate of an expanded function  
30 dental assistant, which has been revoked, and such person shall

1 be required to apply for a license or certificate after a five-  
2 year period in accordance with section 3, if he or she desires  
3 to practice at any time after such revocation. Any person whose  
4 license or certificate has been suspended or revoked because of  
5 a felony conviction under the act of April 14, 1972 (P.L.233,  
6 No.64), known as "The Controlled Substance, Drug, Device and  
7 Cosmetic Act," or similar law of another jurisdiction, may apply  
8 for reinstatement after a period of at least ten (10) years has  
9 elapsed from the date of conviction. The board may reinstate the  
10 license or certificate if the board is satisfied that the person  
11 has made significant progress in personal rehabilitation since  
12 the conviction such that his reinstatement should not be  
13 expected to create a substantial risk of harm to the health and  
14 safety of his patients or the public or a substantial risk of  
15 further criminal violations and if the person meets all other  
16 licensing or certifying qualifications of this act, including  
17 the examination requirement.

18 (4) Require a licensee or certified expanded function dental  
19 assistant to submit to the care, counseling or treatment of a  
20 physician or psychologist designated by the board.

21 (5) Require that a licensee or certified expanded function  
22 dental assistant successfully complete a course of educational  
23 training and testing as directed by the board.

24 (6) Restore or reissue, in its discretion, a license to  
25 practice dentistry or dental hygiene or teaching of dentistry or  
26 certificate for an expanded function dental assistant and impose  
27 any disciplinary or corrective measures which it might  
28 originally have imposed.

29 (7) Suspend enforcement of its findings thereof and place a  
30 licensee or certified expanded function dental assistant on

1 probation with the right to vacate the probationary order for  
2 noncompliance.

3 (8) Order any person found to have violated any provision of  
4 this act or the regulations governing the practice of dentistry  
5 to restore to any patient aggrieved by an unlawful act or  
6 practice, any moneys or property, real or personal, acquired by  
7 means of such act or practice, provided the board shall not  
8 order restitution in a dollar amount greater than those moneys  
9 received by the licensee or his agent.

10 (c) All actions of the board shall be taken subject to the  
11 right of notice, hearing and adjudication and the right of  
12 appeal therefrom in accordance with Title 2 of the Pennsylvania  
13 Consolidated Statutes (relating to administrative law and  
14 procedure).

15 (d) The board shall temporarily suspend a license or  
16 certificate under circumstances as determined by the board to be  
17 an immediate and clear danger to the public health or safety.  
18 The board shall issue an order to that effect without a hearing,  
19 but upon due notice, to the licensee or certified expanded  
20 function dental assistant concerned at his last known address,  
21 which shall include a written statement of all allegations  
22 against the licensee or certified expanded function dental  
23 assistant. The provisions of subsection (c) shall not apply to  
24 temporary suspension. The board shall thereupon commence formal  
25 action to suspend, revoke or restrict the license or certificate  
26 of the person concerned as otherwise provided for in this act.  
27 All actions shall be taken promptly and without delay. Within  
28 thirty days following the issuance of an order temporarily  
29 suspending a license or certificate, the board shall conduct, or  
30 cause to be conducted, a preliminary hearing to determine that

1 there is a prima facie case supporting the suspension. The  
2 person whose license or certificate has been temporarily  
3 suspended may be present at the preliminary hearing and may be  
4 represented by counsel, cross-examine witnesses, inspect  
5 physical evidence, call witnesses, offer evidence and testimony  
6 and make a record of the proceedings. If it is determined that  
7 there is not a prima facie case, the suspended license or  
8 certificate shall be immediately restored. The temporary  
9 suspension shall remain in effect until vacated by the board,  
10 but in no event longer than one hundred eighty days.

11 (e) The board shall require a person whose license or  
12 certificate has been suspended or revoked to return the license  
13 or certificate in such manner as the board directs. Failure to  
14 do so shall be a misdemeanor of the third degree.

15 Section 4. Section 6.2 of the act, added December 20, 1985  
16 (P.L.513, No.118), is repealed:

17 [Section 6.2. Licensing of Graduates of Foreign Dental  
18 Schools.--(a) An Advisory Committee to serve one six-month term  
19 from the effective date of this section, appointed by the board,  
20 consisting of three faculty members from dental schools  
21 accredited in this Commonwealth, shall be charged with the  
22 responsibility of consulting with the aforesaid schools in order  
23 to develop programs and standards for graduates of foreign  
24 dental schools to qualify for licensure. The committee shall  
25 make recommendations and report to the board. The board shall  
26 report to the House Professional Licensure Committee and the  
27 Senate Committee on Consumer Protection and Professional  
28 Licensure, within six months of the effective date of this act,  
29 on the status and progress of this Advisory Committee.  
30 Thereafter, the board shall annually report to the House

1 Professional Licensure Committee and the Senate Committee on  
2 Consumer Protection and Professional Licensure on programs and  
3 standards for graduates of foreign dental schools. The Advisory  
4 Committee members shall be compensated at the rate of sixty  
5 dollars (\$60) per diem when actually attending to the work of  
6 the board and shall also receive the amount of reasonable  
7 traveling, hotel and other necessary expenses incurred in the  
8 performance of their duties in accordance with Commonwealth  
9 regulations.

10 (b) It is the intent of the General Assembly that the  
11 provisions of this section be construed liberally in order to  
12 ensure the establishment of viable and accessible programs  
13 through which graduates of foreign dental schools may obtain  
14 such further preclinical and clinical training as shall lead to  
15 the awarding of the D.M.D. or D.D.S. degree at accredited dental  
16 schools in this Commonwealth in order to qualify for licensure  
17 under the provisions of this act.]

18 Section 5. Section 9 of the act is repealed:

19 [Section 9. Employees and Assistants.--The Department of  
20 Public Instruction shall assign to the board such clerks,  
21 stenographers, assistants, and investigators as may be deemed  
22 necessary to carry out and enforce the provisions of this act.]

23 Section 6. Sections 10 and 11.5 of the act, amended December  
24 27, 1994 (P.L.1361, No.160), are amended to read:

25 Section 10. Penalties.--(a) It is unlawful for any person  
26 to practice dentistry or as a dental hygienist or as a teacher  
27 of dentistry or as an expanded function dental assistant, or to  
28 hold himself or herself out as a practitioner of or entitled or  
29 authorized to practice dentistry or as a dental hygienist or as  
30 a teacher of dentistry or as an expanded function dental

1 assistant, or to assume any title of "dentist," "dental  
2 surgeon," "dental hygienist," "teacher of dentistry," "expanded  
3 function dental assistant" or other letters or titles in  
4 connection with his or her name which in any way represent him  
5 or her as being engaged in the practice of dentistry or as a  
6 dental hygienist or as a teacher of dentistry or as an expanded  
7 function dental assistant, or authorized so to do, unless he or  
8 she has been duly licensed or certified, and authorized to  
9 engage in such practice under the provisions of this act. A  
10 person who violates this subsection commits a misdemeanor of the  
11 third degree and shall, upon conviction, for a first offense, be  
12 sentenced to a fine not to exceed one thousand dollars (\$1,000)  
13 or to imprisonment for not more than six months, or both. A  
14 second offense shall be subject to a fine not to exceed two  
15 thousand dollars (\$2,000) or imprisonment for a term of six  
16 months to one year, or both.

17 (b) It is unlawful for any person to practice dentistry or  
18 as a dental hygienist or as a teacher of dentistry or as an  
19 expanded function dental assistant under a name other than that  
20 on his or her license and biennial renewal, or to practice under  
21 the name on his or her license and biennial renewal with any  
22 addition thereto, except a purely technical appellation such as  
23 "Dentist," "D.D.S.," "Orthodontist" or other word or letters  
24 pertaining strictly to the practice of dentistry, or to induce  
25 any person to practice dentistry or as a dental hygienist or as  
26 a teacher of dentistry or as an expanded function dental  
27 assistant in violation of this act.

28 (c) It is unlawful for any person to sell, offer to sell or  
29 barter or exchange any diploma or document conferring or  
30 purporting to confer any dental degree or any license or

1 certificate issued according to law regulating the licensing of  
2 dentists [or], dental hygienists or teachers of dentistry or  
3 expanded function dental assistants, or to alter any such  
4 document with fraudulent intent, or to use it as a license to  
5 practice dentistry under an assumed name, or to make any false  
6 statement in an affidavit relating to or in an application for a  
7 license.

8 (d) It is unlawful for any person to practice dentistry or  
9 as a dental hygienist or as an expanded function dental  
10 assistant unless his or her license or certificate and biennial  
11 renewal certificate are displayed in the office in which he or  
12 she is practicing dentistry or as a dental hygienist or as an  
13 expanded function dental assistant.

14 (e) It is unlawful for a person practicing dentistry to  
15 employ a person as a dental hygienist unless such person is  
16 licensed as a dental hygienist as required by this act and the  
17 rules and regulations of the board or to employ a person as an  
18 expanded function dental assistant unless such person is  
19 certified as an expanded function dental assistant as required  
20 by this act and the rules and regulations of the board.

21 (f) It is unlawful for any dentist to permit any dental  
22 hygienist operating under his general supervision to perform any  
23 operation other than those included within practice as a "Dental  
24 Hygienist," as defined by section two of this act. It is  
25 unlawful for any dentist to permit any expanded function dental  
26 assistant operating under his or her direct supervision to  
27 perform any procedures other than those included within the  
28 definition of "Expanded Function Dental Assistant."

29 (g) It is unlawful for any dental hygienist to perform any  
30 of the operations included in practice as a "Dental Hygienist,"

1 as defined by section two of this act, except under the general  
2 supervision of a licensed dentist. It is unlawful for any  
3 expanded function dental assistant to perform any procedure  
4 within the definition of "Expanded Function Dental Assistant"  
5 which requires certification under this act unless such  
6 procedure is performed under the direct supervision of a  
7 licensed dentist.

8 (g.1) It is unlawful for any teacher of dentistry to perform  
9 any operations that a person licensed to practice dentistry may  
10 perform outside the facilities of the dental school in this  
11 Commonwealth, that is accredited by the Commission on Dental  
12 Accreditation of the American Dental Association, at which the  
13 teacher of dentistry is licensed to teach.

14 (h) Any person violating any of the provisions of this  
15 section other than subsection (a), or any other provisions of  
16 this act except as provided in subsection (a), shall be guilty  
17 of a misdemeanor, and, upon conviction thereof, shall be  
18 sentenced to pay a fine not exceeding five hundred dollars, or  
19 to suffer imprisonment not exceeding six months, or both, in the  
20 discretion of the court.

21 Section 11.5. Reporting of Multiple Licensure or  
22 Certification.--Any licensed dentist [or], dental hygienist or  
23 teacher of dentistry or certified expanded function dental  
24 assistant of this Commonwealth who is also licensed to practice  
25 dentistry or as a dental hygienist or a certified expanded  
26 function dental assistant in any other state, territory or  
27 country shall report this information to the board on the  
28 biennial renewal application. Any disciplinary action taken in  
29 other states, territories or countries shall be reported to the  
30 board on the biennial renewal application or within ninety (90)



1 days of disposition, whichever is sooner. Multiple licensure or  
2 certification shall be noted by the board on the dentist's,  
3 dental hygienist's, teacher of dentistry's or expanded function  
4 dental assistant's record, and such state, territory or country  
5 shall be notified by the board of any disciplinary actions taken  
6 against the dentist or dental hygienist in this Commonwealth.

7 Section 7. This act shall take effect in 60 days.