

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2492 Session of 2012

INTRODUCED BY O'NEILL, COHEN, DAVIDSON, DENLINGER, EVERETT,
GEIST, GINGRICH, HARKINS, HARPER, JOSEPHS, MANN, MILLER,
SCHMOTZER, MURT AND D. COSTA, JUNE 21, 2012

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, JUNE 21, 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 penalties and for reporting of multiple
13 licensure or certification; and providing for restricted
14 faculty license.

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 and the section is amended by adding a definition to
21 read:

22 Section 2. Definitions.--A person engages in the "Practice
23 of Dentistry," within the meaning of this act, who diagnoses,

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

12 (a) The practice of any of the healing arts by duly licensed
13 practitioners.

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

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

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

30 (e) The practice of dentistry in clinical departments and

laboratories of dental schools and their affiliated facilities 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.

* * *

"Restricted Faculty License" means a license granted to an individual for the limited purpose of teaching, including clinical teaching, in a dental school or advanced dental education program as a faculty member at an accredited dental school in this Commonwealth.

Section 2. Section 3(j.2)(2) of the act, amended July 20, 2007 (P.L.327, No.51), is 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:

* * *

(c.1) To provide for and to regulate the licensing, and to license to practice dentistry for the limited purpose of teaching, without examination, any qualified applicant who satisfies the requirements of section 11.11.

* * *

(j.2) * * *

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

(i) Thirty credit hours for a person licensed to practice dentistry, including an individual licensed to practice dentistry under a restricted faculty license.

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

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

* * *

Section 3. Sections 4(a) and 4.1(a) introductory paragraph, (3), (5), (7), (8) and (11) and (b) (3) and (6) of the act, amended December 27, 1994 (P.L.1361, No.160), are amended to read:

Section 4. Fees.--(a) The fee for an applicant for examination and licensure to practice dentistry or as a dental hygienist or certification for an expanded function dental assistant in this Commonwealth shall be fixed by the board by regulation. It shall be the duty of all persons now qualified and engaged in the practice of dentistry and dental hygiene or as a certified expanded function dental assistant, or who shall hereafter be licensed or certified by the board, to renew biennially with said board, and pay for each such biennial renewal a fee which shall be fixed by the board by regulation. The fee for an applicant for a restricted faculty license in this Commonwealth shall be fixed by the board by regulation.

* * *

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

* * *

(3) Practicing fraud or deceit in obtaining a license to practice dentistry or dental hygiene or restricted faculty license or certificate for expanded function dental assisting or making a false or deceptive biennial renewal with the board.

* * *

(5) Having a license to practice dentistry or dental hygiene or restricted faculty license or certificate for expanded function dental assisting revoked, suspended or having other disciplinary action imposed or consented to by the proper licensing authority of another state, territory or country or his application for license refused, revoked or suspended by the proper licensing authority of another state, territory or country.

* * *

(7) Knowingly maintaining a professional connection or association with any person who is in violation of this act or regulations of the board or knowingly aiding, assisting, procuring or advising any unlicensed person to practice dentistry, including practice outside the scope of a restricted faculty license, or dental hygiene or uncertified person for expanded function dental assisting contrary to this act or regulations of the board.

(8) Engaging in unprofessional conduct. For purposes of this

1 clause (8), unprofessional conduct shall include any departure
2 from, or failure to conform to, the standards of acceptable and
3 prevailing dental or dental hygiene practice, practice under a
4 restricted faculty license and standard of care for expanded
5 function dental assistants in which proceeding actual injury to
6 the patient need not be established.

7 * * *

8 (11) Being unable to practice dentistry or as a dental
9 hygienist, as a restricted faculty licensee or as an expanded
10 function dental assistant with reasonable skill and safety to
11 patients by reason of illness, drunkenness, excessive use of
12 controlled substances, chemicals or any other type of material,
13 or as the result of any mental or physical condition. In
14 enforcing this clause (11), the board shall, upon probable
15 cause, have authority to compel a dentist, dental hygienist, restricted faculty licensee or expanded function dental
16 assistant to submit to a mental or physical examination by
17 physicians designated by the board. Failure of a dentist, dental
18 hygienist, restricted faculty licensee or expanded function
19 dental assistant to submit to such examination when directed by
20 the board, unless such failure is due to circumstances beyond
21 his control, shall constitute an admission of the allegations
22 against him, consequent upon which a default and final order may
23 be entered without the taking of testimony or presentation of
24 evidence. A dentist, dental hygienist, restricted faculty
25 licensee or expanded function dental assistant affected under
26 this clause (11) shall, at reasonable intervals, be afforded an
27 opportunity to demonstrate that he or she can resume a competent
28 practice of dentistry[,], or dental hygiene or as a restricted
29 faculty licensee or an expanded function dental assistant with

1 reasonable skill and safety to patients.

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

5 * * *

6 (3) Revoke, suspend, limit or otherwise restrict a license
7 or certificate as determined by the board. Unless ordered to do
8 so by a court, the board shall not reinstate the license of a
9 person to practice dentistry, [or] as a dental hygienist or as a
10 restricted faculty licensee or certificate of an expanded
11 function dental assistant, which has been revoked, and such
12 person shall be required to apply for a license or certificate
13 after a five-year period in accordance with section 3, if he or
14 she desires to practice at any time after such revocation. Any
15 person whose license or certificate has been suspended or
16 revoked because of a felony conviction under the act of April
17 14, 1972 (P.L.233, No.64), known as "The Controlled Substance,
18 Drug, Device and Cosmetic Act," or similar law of another
19 jurisdiction, may apply for reinstatement after a period of at
20 least ten (10) years has elapsed from the date of conviction.
21 The board may reinstate the license or certificate if the board
22 is satisfied that the person has made significant progress in
23 personal rehabilitation since the conviction such that his
24 reinstatement should not be expected to create a substantial
25 risk of harm to the health and safety of his patients or the
26 public or a substantial risk of further criminal violations and
27 if the person meets all other licensing or certifying
28 qualifications of this act, including the examination
29 requirement.

30 * * *

1 (6) Restore or reissue, in its discretion, a license to
2 practice dentistry or dental hygiene or a restricted faculty
3 license or certificate for an expanded function dental assistant
4 and impose any disciplinary or corrective measures which it
5 might originally have imposed.

6 * * *

7 Section 4. Section 10(a), (b) and (c) of the act, amended
8 December 27, 1994 (P.L.1361, No.160), are amended and the
9 section is amended by adding a subsection to read:

10 Section 10. Penalties.--(a) It is unlawful for any person
11 to practice dentistry or as a dental hygienist, as a restricted
12 faculty licensee or as an expanded function dental assistant, or
13 to hold himself or herself out as a practitioner of or entitled
14 or authorized to practice dentistry or as a dental hygienist, as
15 a restricted faculty licensee or as an expanded function dental
16 assistant, or to assume any title of "dentist," "dental
17 surgeon," "dental hygienist," "restricted faculty licensee,"
18 "expanded function dental assistant" or other letters or titles
19 in connection with his or her name which in any way represent
20 him or her as being engaged in the practice of dentistry or as a
21 dental hygienist, as a restricted faculty licensee or as an
22 expanded function dental assistant, or authorized so to do,
23 unless he or she has been duly licensed or certified, and
24 authorized to engage in such practice under the provisions of
25 this act. A person who violates this subsection commits a
26 misdemeanor of the third degree and shall, upon conviction, for
27 a first offense, be sentenced to a fine not to exceed one
28 thousand dollars (\$1,000) or to imprisonment for not more than
29 six months, or both. A second offense shall be subject to a fine
30 not to exceed two thousand dollars (\$2,000) or imprisonment for

1 a term of six months to one year, or both.

2 (b) It is unlawful for any person to practice dentistry or
3 as a dental hygienist, as a restricted faculty licensee or as an
4 expanded function dental assistant under a name other than that
5 on his or her license and biennial renewal, or to practice under
6 the name on his or her license and biennial renewal with any
7 addition thereto, except a purely technical appellation such as
8 "Dentist," "D.D.S.," "Orthodontist" or other word or letters
9 pertaining strictly to the practice of dentistry, or to induce
10 any person to practice dentistry or as a dental hygienist, as a
11 restricted faculty licensee or as an expanded function dental
12 assistant in violation of this act.

13 (c) It is unlawful for any person to sell, offer to sell or
14 barter or exchange any diploma or document conferring or
15 purporting to confer any dental degree or any license or
16 certificate issued according to law regulating the licensing of
17 dentists [or], dental hygienists, restricted faculty licensees
18 or expanded function dental assistants, or to alter any such
19 document with fraudulent intent, or to use it as a license to
20 practice dentistry under an assumed name, or to make any false
21 statement in an affidavit relating to or in an application for a
22 license.

23 * * *

24 (g.1) It is unlawful for any restricted faculty licensee to
25 practice dentistry outside the primary research facilities of
26 the dental school in this Commonwealth at which the individual
27 is licensed to teach.

28 * * *

29 Section 5. Section 11.5 of the act, amended December 27,
30 1994 (P.L.1361, No.160), is amended to read:

1 Section 11.5. Reporting of Multiple Licensure or
2 Certification.--Any licensed dentist or dental hygienist,
3 restricted faculty licensee or certified expanded function
4 dental assistant of this Commonwealth who is also licensed to
5 practice dentistry or as a dental hygienist, as a restricted
6 faculty licensee or a certified expanded function dental
7 assistant in any other state, territory or country shall report
8 this information to the board on the biennial renewal
9 application. Any disciplinary action taken in other states,
10 territories or countries shall be reported to the board on the
11 biennial renewal application or within ninety (90) days of
12 disposition, whichever is sooner. Multiple licensure or
13 certification shall be noted by the board on the dentist's,
14 dental hygienist's, restricted faculty licensee's or expanded
15 function dental assistant's record, and such state, territory or
16 country shall be notified by the board of any disciplinary
17 actions taken against the dentist [or], dental hygienist or
18 restricted faculty licensee in this Commonwealth.

19 Section 6. The act is amended by adding a section to read:

20 Section 11.11. Restricted Faculty License.--(a) The board
21 shall grant without examination a restricted faculty license to
22 any qualified individual, not less than twenty-one years of age,
23 of good moral character, not addicted to the use of intoxicating
24 liquor or narcotic drugs, who satisfies the following criteria:

25 (1) Is licensed to practice dentistry by the proper
26 licensing authority of another state, country or territory in
27 which the standards for practicing and teaching are in
28 accordance with, and approved by, the Commission on Dental
29 Accreditation of the American Dental Association.

30 (2) Is not licensed to practice dentistry in this

1 Commonwealth.

2 (3) Has successfully completed a specialty dentistry
3 program, or advanced dental training in a clinical field, that
4 is approved by the Commission on Dental Accreditation of the
5 American Dental Association.

6 (4) Holds an appointment to the faculty of a dental school
7 in this Commonwealth that is approved by the Commission on
8 Dental Accreditation of the American Dental Association to teach
9 dentistry.

10 (5) Has not failed an examination for a license to practice
11 dentistry in this Commonwealth.

12 (6) Has met educational requirements as set by the board.

13 (7) Submits a completed application, including supporting
14 documents the board deems necessary and the prescribed fee.

15 (b) A restricted faculty license shall entitle the licensee
16 to engage in direct clinical teaching, which shall include
17 practicing clinical care for the purpose of instructing and
18 teaching students and residents, and supervision of care
19 provided by students and residents, in no more than one area of
20 specialty, only within the educational facilities of a dental
21 school in this Commonwealth that is approved by the Commission
22 on Dental Accreditation of the American Dental Association.
23 Licensees shall be limited to the primary research facilities
24 within the dental school, and may not engage in clinical
25 teaching at satellite or other off-campus sites, such as
26 clinics. The practice of dentistry at any satellite or off-
27 campus site requires an unrestricted license to practice
28 dentistry issued by the board.

29 (c) A restricted faculty licensee may receive additional
30 compensation, to be paid by the dental school, for clinical care

1 provided in accordance with subsection (b).

2 (d) A restricted faculty license may be renewed on a
3 biennial basis. Conditions of renewal, including continuing
4 education, shall be set by the board by regulation.

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