

DENTAL LAW - GENERAL POWERS OF THE STATE BOARD OF DENTISTRY,
REASON FOR REFUSAL, REVOCATION OR SUSPENSION OF LICENSE OR
CERTIFICATE, PENALTIES, REPORTING OF MULTIPLE LICENSURE OR
CERTIFICATION AND RESTRICTED FACULTY LICENSE

Act of Jul. 2, 2014, P.L. 828, No. 89

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Session of 2014

No. 2014-89

HB 272

AN ACT

Amending the act of May 1, 1933 (P.L.216, No.76), entitled "An act relating to dentistry; defining and providing for the licensing and registration of dentists and dental hygienists, and for the revocation and suspension of such licenses and registrations, subject to appeal, and for their reinstatement; defining the powers and duties of the State Dental Council and Examining Board and the Department of Public Instruction; providing penalties; and repealing existing laws," further providing for definitions, for general powers of the State Board of Dentistry, for reason for refusal, revocation or suspension of license or certificate, for penalties and for reporting of multiple licensure or certification; and providing for restricted faculty license.

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

Section 1. The definition of "practice of dentistry" in section 2 of the act of May 1, 1933 (P.L.216, No.76), known as The Dental Law, amended December 16, 1992 (P.L.1222, No.160), is amended and the section is amended by adding a definition to read:

Section 2. Definitions.--A person engages in the "Practice of Dentistry," within the meaning of this act, who diagnoses, treats, operates on, or prescribes for any disease, pain or injury, or regulates any deformity or physical condition, of the human teeth, jaws, or associated structures, or conducts a physical evaluation, or administers anesthetic agents, or uses ionizing radiation in the course of dental practice, or who fits, constructs, and inserts any artificial appliance, plate, or denture for the human teeth or jaws, or who holds himself or herself out as being able or legally authorized to do so. **The term "Practice of Dentistry" includes the practice of dentistry under a restricted faculty license.** The term "Practice of Dentistry" does not include:

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

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

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

[(d) The practice of dentistry by a duly licensed practitioner of dentistry of any other state or country for the limited purpose of teaching, including clinical teaching, in a

dental school or advanced dental education program in the Commonwealth approved by the board after notification to the board and in accordance with board regulations. Appointments shall not exceed four (4) years and may only be extended if the practitioner receives a license from the board.]

(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.

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"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.

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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:

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(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.

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Section 3. Section 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 4.1. 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:

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(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.

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(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.

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

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

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

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(3) Revoke, suspend, limit or otherwise restrict a license or certificate as determined by the board. Unless ordered to do so by a court, the board shall not reinstate the license of a person to practice dentistry, [or] as a dental hygienist **or as a restricted faculty licensee** or certificate of an expanded

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

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

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

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

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

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

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

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

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

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

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

(1) Is licensed to practice or teach dentistry by the proper licensing authority of another state or United States territory.

(2) Is not licensed to practice dentistry in this Commonwealth.

(3) 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.

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

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

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

(7) Submits a completed application and an application fee in the same amount as the fee prescribed by the board for licensure to practice dentistry.

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

(c) A restricted faculty licensee may receive additional compensation, to be paid by the dental school, for clinical care provided in accordance with subsection (b).

(d) A restricted faculty license may be renewed on a biennial basis, upon completion of thirty hours of continuing education and the payment of a biennial renewal fee in the same amount as the fee prescribed by the board for renewal of licensure to practice dentistry.

(e) A restricted faculty licensee shall comply with the requirements for insurance as provided for in this act.

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

APPROVED--The 2nd day of July, A.D. 2014.

TOM CORBETT