
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2684 Session of
2010

INTRODUCED BY PAYTON, CALTAGIRONE, HARKINS, HENNESSEY, MILNE AND
SIPROTH, SEPTEMBER 2, 2010

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, SEPTEMBER 2,
2010

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

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

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

11 * * *

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

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

19 * * *

20 (d.2) (1) To grant without examination a restricted license
21 to teach dentistry at a dental school in this Commonwealth to
22 any duly qualified person, not less than twenty-one (21) years
23 of age, of good moral character, not addicted to the use of
24 intoxicating liquor or narcotic drugs, who:

25 (i) is foreign trained and successfully completed a
26 specialty dentistry program approved by the American Dental
27 Association's Commission on Dental Accreditation, and:

28 (A) holds an appointment to the faculty of a dental school
29 in this Commonwealth to teach dentistry;

30 (B) is not licensed to practice dentistry in this

1 Commonwealth;

2 (C) is licensed to practice dentistry by the proper
3 licensing authority of another state, country or territory;

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

6 (E) has met educational requirements as set by the board by
7 regulations; and

8 (F) submits a completed application, the supporting
9 documents the board deems necessary to determine his
10 qualifications and the prescribed fee; and

11 (ii) is foreign trained and has not completed a specialty
12 dentistry program approved by the American Dental Association's
13 Commission on Dental Accreditation, and:

14 (A) holds an appointment to the faculty of a dental school
15 in this Commonwealth to teach dentistry;

16 (B) is not licensed to practice dentistry in this
17 Commonwealth;

18 (C) is licensed to practice dentistry by the proper
19 licensing authority of another state, country or territory;

20 (D) has not failed an examination for a license to practice
21 dentistry in this Commonwealth; and

22 (E) submits a completed application, the supporting
23 documents the board deems necessary to determine his
24 qualifications and the prescribed fee.

25 (2) A restricted license shall entitle the licensee to
26 perform all operations that a person licensed to practice
27 dentistry may perform but only for the purpose of teaching.

28 (3) A restricted license granted under paragraph (1)(i)
29 shall be renewed biennially. Conditions of renewal, including
30 continuing education, shall be set by the board by regulations.

1 (4) A restricted license granted pursuant to paragraph (1)
2 (ii) shall be renewed biennially for a maximum of six (6) years
3 of licensure. Conditions of renewal shall be set by the board by
4 regulation.

5 * * *

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

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

20 (i) Thirty credit hours for a person licensed to practice
21 dentistry or licensed as a teacher of dentistry under paragraph
22 (1)(i).

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

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

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

30 * * *

1 (m) To administer and enforce the laws of the Commonwealth
2 relating to the practice of dentistry and dental hygienists and
3 teachers of dentistry and certified expanded function dental
4 assistants, and to instruct and require its agents to bring
5 prosecutions for unauthorized and unlawful practices.

6 * * *

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

9 Section 4. Fees.--(a) The fee for an applicant for
10 examination and licensure to practice dentistry or as a dental
11 hygienist or certification for an expanded function dental
12 assistant in this Commonwealth shall be fixed by the board by
13 regulation. The fee for licensure as a teacher of dentistry in
14 this Commonwealth shall be fixed by the board by regulation. It
15 shall be the duty of all persons now qualified and engaged in
16 the practice of dentistry and dental hygiene or as a certified
17 expanded function dental assistant, or who shall hereafter be
18 licensed or certified by the board, to renew biennially with
19 said board, and pay for each such biennial renewal a fee which
20 shall be fixed by the board by regulation.

21 * * *

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

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

30 (2) Making misleading, deceptive, untrue or fraudulent

1 representations.

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

6 (4) Having been found guilty of a crime or misdemeanor
7 involving moral turpitude or having been found guilty of a
8 felony in violation of the laws of this Commonwealth or any
9 other state, territory or country. For purposes of this clause
10 (4), the phrase "having been found guilty" shall include a
11 finding or verdict of guilt, an admission of guilt or a plea of
12 nolo contendere.

13 (5) Having a license to practice dentistry [or], dental
14 hygiene or as a teacher of dentistry or certificate for expanded
15 function dental assisting revoked, suspended or having other
16 disciplinary action imposed or consented to by the proper
17 licensing authority of another state, territory or country or
18 his application for license refused, revoked or suspended by the
19 proper licensing authority of another state, territory or
20 country.

21 (6) Violating any of the provisions of this act or of a
22 lawful regulation promulgated by the board or violating a lawful
23 order of the board previously entered by the board in a
24 disciplinary proceeding.

25 (7) Knowingly maintaining a professional connection or
26 association with any person who is in violation of this act or
27 regulations of the board or knowingly aiding, assisting,
28 procuring or advising any unlicensed person to practice
29 dentistry [or], dental hygiene or as a teacher of dentistry or
30 uncertified person for expanded function dental assisting

1 contrary to this act or regulations of the board.

2 (8) Engaging in unprofessional conduct. For purposes of this
3 clause (8), unprofessional conduct shall include any departure
4 from, or failure to conform to, the standards of acceptable and
5 prevailing dental or dental hygiene practice, practice of
6 teaching dentistry and standard of care for expanded function
7 dental assistants in which proceeding actual injury to the
8 patient need not be established.

9 (9) Committing an act of gross negligence, malpractice or
10 incompetence or repeated acts of negligence, malpractice or
11 incompetence.

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

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

1 function dental assistant affected under this clause (11) shall,
2 at reasonable intervals, be afforded an opportunity to
3 demonstrate that he or she can resume a competent practice of
4 dentistry, dental hygiene or as a teacher of dentistry or as an
5 expanded function dental assistant with reasonable skill and
6 safety to patients.

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

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

11 (2) Administer a public reprimand.

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

1 safety of his patients or the public or a substantial risk of
2 further criminal violations and if the person meets all other
3 licensing or certifying qualifications of this act, including
4 the examination requirement.

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

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

11 (6) Restore or reissue, in its discretion, a license to
12 practice dentistry or dental hygiene or teaching of dentistry or
13 certificate for an expanded function dental assistant and impose
14 any disciplinary or corrective measures which it might
15 originally have imposed.

16 (7) Suspend enforcement of its findings thereof and place a
17 licensee or certified expanded function dental assistant on
18 probation with the right to vacate the probationary order for
19 noncompliance.

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

27 (c) All actions of the board shall be taken subject to the
28 right of notice, hearing and adjudication and the right of
29 appeal therefrom in accordance with Title 2 of the Pennsylvania
30 Consolidated Statutes (relating to administrative law and

1 procedure).

2 (d) The board shall temporarily suspend a license or
3 certificate under circumstances as determined by the board to be
4 an immediate and clear danger to the public health or safety.
5 The board shall issue an order to that effect without a hearing,
6 but upon due notice, to the licensee or certified expanded
7 function dental assistant concerned at his last known address,
8 which shall include a written statement of all allegations
9 against the licensee or certified expanded function dental
10 assistant. The provisions of subsection (c) shall not apply to
11 temporary suspension. The board shall thereupon commence formal
12 action to suspend, revoke or restrict the license or certificate
13 of the person concerned as otherwise provided for in this act.
14 All actions shall be taken promptly and without delay. Within
15 thirty days following the issuance of an order temporarily
16 suspending a license or certificate, the board shall conduct, or
17 cause to be conducted, a preliminary hearing to determine that
18 there is a prima facie case supporting the suspension. The
19 person whose license or certificate has been temporarily
20 suspended may be present at the preliminary hearing and may be
21 represented by counsel, cross-examine witnesses, inspect
22 physical evidence, call witnesses, offer evidence and testimony
23 and make a record of the proceedings. If it is determined that
24 there is not a prima facie case, the suspended license or
25 certificate shall be immediately restored. The temporary
26 suspension shall remain in effect until vacated by the board,
27 but in no event longer than one hundred eighty days.

28 (e) The board shall require a person whose license or
29 certificate has been suspended or revoked to return the license
30 or certificate in such manner as the board directs. Failure to

1 do so shall be a misdemeanor of the third degree.

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

4 [Section 6.2. Licensing of Graduates of Foreign Dental
5 Schools.--(a) An Advisory Committee to serve one six-month term
6 from the effective date of this section, appointed by the board,
7 consisting of three faculty members from dental schools
8 accredited in this Commonwealth, shall be charged with the
9 responsibility of consulting with the aforesaid schools in order
10 to develop programs and standards for graduates of foreign
11 dental schools to qualify for licensure. The committee shall
12 make recommendations and report to the board. The board shall
13 report to the House Professional Licensure Committee and the
14 Senate Committee on Consumer Protection and Professional
15 Licensure, within six months of the effective date of this act,
16 on the status and progress of this Advisory Committee.
17 Thereafter, the board shall annually report to the House
18 Professional Licensure Committee and the Senate Committee on
19 Consumer Protection and Professional Licensure on programs and
20 standards for graduates of foreign dental schools. The Advisory
21 Committee members shall be compensated at the rate of sixty
22 dollars (\$60) per diem when actually attending to the work of
23 the board and shall also receive the amount of reasonable
24 traveling, hotel and other necessary expenses incurred in the
25 performance of their duties in accordance with Commonwealth
26 regulations.

27 (b) It is the intent of the General Assembly that the
28 provisions of this section be construed liberally in order to
29 ensure the establishment of viable and accessible programs
30 through which graduates of foreign dental schools may obtain

1 such further preclinical and clinical training as shall lead to
2 the awarding of the D.M.D. or D.D.S. degree at accredited dental
3 schools in this Commonwealth in order to qualify for licensure
4 under the provisions of this act.]

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

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

10 Section 6. Sections 10 and 11.5 of the act, amended December
11 27, 1991 (P.L.1361, No.160), are amended to read:

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

1 second offense shall be subject to a fine not to exceed two
2 thousand dollars (\$2,000) or imprisonment for a term of six
3 months to one year, or both.

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

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

25 (d) It is unlawful for any person to practice dentistry or
26 as a dental hygienist or as an expanded function dental
27 assistant unless his or her license or certificate and biennial
28 renewal certificate are displayed in the office in which he or
29 she is practicing dentistry or as a dental hygienist or as an
30 expanded function dental assistant.

1 (e) It is unlawful for a person practicing dentistry to
2 employ a person as a dental hygienist unless such person is
3 licensed as a dental hygienist as required by this act and the
4 rules and regulations of the board or to employ a person as an
5 expanded function dental assistant unless such person is
6 certified as an expanded function dental assistant as required
7 by this act and the rules and regulations of the board.

8 (f) It is unlawful for any dentist to permit any dental
9 hygienist operating under his general supervision to perform any
10 operation other than those included within practice as a "Dental
11 Hygienist," as defined by section two of this act. It is
12 unlawful for any dentist to permit any expanded function dental
13 assistant operating under his or her direct supervision to
14 perform any procedures other than those included within the
15 definition of "Expanded Function Dental Assistant."

16 (g) It is unlawful for any dental hygienist to perform any
17 of the operations included in practice as a "Dental Hygienist,"
18 as defined by section two of this act, except under the general
19 supervision of a licensed dentist. It is unlawful for any
20 expanded function dental assistant to perform any procedure
21 within the definition of "Expanded Function Dental Assistant"
22 which requires certification under this act unless such
23 procedure is performed under the direct supervision of a
24 licensed dentist.

25 (g.1) It is unlawful for any teacher of dentistry to perform
26 any operations that a person licensed to practice dentistry may
27 perform outside the dental school at which the teacher of
28 dentistry is licensed to teach. It is unlawful for a teacher of
29 dentistry to practice dentistry intramurally or privately or
30 receive a fee for his services.

1 (h) Any person violating any of the provisions of this
2 section other than subsection (a), or any other provisions of
3 this act except as provided in subsection (a), shall be guilty
4 of a misdemeanor, and, upon conviction thereof, shall be
5 sentenced to pay a fine not exceeding five hundred dollars, or
6 to suffer imprisonment not exceeding six months, or both, in the
7 discretion of the court.

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

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