

ACT No. 188

2020 Regular Session

HOUSE BILL NO. 363

BY REPRESENTATIVE DUPLESSIS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

AN ACT

To enact R.S. 37:764.1 and 795(B)(1)(o), relative to retired volunteer dental hygienists; to authorize the licensure of retired dental hygienists who provide voluntary dental hygiene services; to provide for the procedures and requirements to obtain a retired volunteer dental hygienist license; to provide for a limitation of liability for retired volunteer dental hygienists and an exception to the limitation of liability; to provide for a return to active licensure status; to provide a renewal date; to provide for fees and costs; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:764.1 and 795(B)(1)(o) are hereby enacted to read as follows:

§764.1. Retired volunteer dental hygienist license; issuance; applicant's requirements; limitation of liability; denial; violations; status change; continuing education

A. The board may issue a retired volunteer dental hygienist license to an applicant to practice dental hygiene if the dental hygienist's practice consists only of voluntary care, as defined by the board rule. Holders of a retired volunteer dental hygienist license shall submit with the application to the board a notarized statement that they shall not accept any form of remuneration directly or indirectly for providing dental hygiene services. Any application for licensure pursuant to this Section shall be in the form and manner designated by the board.

B. The applicant for licensure shall meet all of the following conditions:

(1) The applicant shall maintain, for at least ten years prior to retirement, full licensure in good standing in Louisiana without disciplinary action that restricted the

1 applicant's license or resulted in the applicant's license being placed on probation,
2 suspended, restricted, revoked, surrendered, resigned, or otherwise allowed to lapse
3 or expire in lieu of disciplinary action being taken.

4 (2) The applicant shall have held an active status dental hygienist license in
5 good standing in Louisiana within one year prior to the date of application for a
6 retired volunteer dental hygienist license; however, the board may waive the one-
7 year requirement in the event that the applicant demonstrates that he possesses the
8 knowledge and skills requisite to the practice of dental hygiene by successfully
9 completing such examinations required by the board.

10 (3) The applicant shall be of good moral character and affirm that he has no
11 felony convictions or other criminal convictions that would affect his ability to
12 render competent care.

13 C. For purposes of this Section, a person shall be considered retired from
14 practice if his license has been surrendered or allowed to expire with the intention
15 of ceasing to practice as a dental hygienist for remuneration.

16 D.(1) No dental hygienist holding a retired volunteer license to practice
17 dental hygiene who in good faith gratuitously renders health care to a patient shall
18 be liable for any civil damages as a result of any act or omission in rendering the care
19 or services or as a result of any act or failure to act to provide or arrange for further
20 medical or dental treatment or care to any person receiving the services, unless the
21 damages were caused by the gross negligence or willful or wanton misconduct of the
22 dental hygienist.

23 (2) This Subsection shall not apply if the dental hygienist holding a retired
24 volunteer license treats a patient in a private clinic where payment by the patient is
25 expected and the patient or the patient's private insurer pays the clinic or the clinic
26 owner for the treatment, even if the dental hygienist holding the volunteer license is
27 providing the treatment without being remunerated.

28 (3)(a) The provisions of this Subsection shall be applicable only if the person
29 receiving the healthcare services receives prior notice from the facility, where the

1 licensed retired volunteer dental hygienist is providing services, of the limitation of
2 liability provided for in this Subsection.

3 (b) Either at the initial screening of a person or at the time healthcare
4 services are provided, the facility or the licensed retired volunteer dental hygienist
5 providing the services shall inform such person of the limitation of liability by
6 distributing to such person a written notice. Such notice shall also be posted at a
7 prominent place where patients entering the facility will see it. The notice shall read
8 substantially as follows: "NOTICE - If you are injured here because of things we do
9 or fail to do, you do not have the same legal recourse as you would have against
10 other healthcare providers."

11 (c) The posted notice shall be printed in type size sufficient to be easily read
12 by patients upon entering the facility.

13 (d) Failure to follow notice procedures as provided in this Subsection shall
14 negate the limitation of liability.

15 E. All documentation and certification shall be submitted to the board for
16 review. Any plan to reestablish competency shall be submitted to and pre-approved
17 by the board. Demonstration of professional ability, skills, and knowledge may be
18 accomplished by successfully completing a reentry program at an accredited dental
19 institution, which will certify that the licensee's proficiency meets or exceeds the
20 competency level required of a graduating student in his senior year from the
21 institution.

22 F. The board shall deny issuance of a retired volunteer dental hygienist
23 license to a person who is not qualified pursuant to this Section to hold a retired
24 volunteer dental hygienist license.

25 G. The holder of a license pursuant to this Section who practices dental
26 hygiene other than as authorized in this Section shall be guilty of a felony with each
27 day's violation constituting a separate offense. Upon proof of practice other than as
28 authorized in this Section or of a violation of R.S. 37:776, the board may suspend or
29 revoke the retired volunteer dental hygienist license after notice to the licensee. For
30 violations of the dental practice act or rules adopted under the act that are applicable

1 to dental hygiene practice under this Section, the board shall have the same authority
2 to investigate and impose sanctions on retired volunteer license holders as it has for
3 those holding an active license.

4 H. Any person licensed pursuant to this Section may apply to the board for
5 a return to active licensure status by filing an application in the form and manner
6 prescribed by the board and meeting all applicable requirements of this Chapter.
7 Licensees who desire to change a retired volunteer license to an active license and
8 who have not practiced within the year immediately preceding application for an
9 active license shall document and certify to the board how they have maintained their
10 professional ability, skills, and knowledge and shall be subject, at the board's
11 discretion, to the provisions of LAC 46:XXXIII.124.

12 I. The retired volunteer status of a licensee shall be plainly indicated on the
13 face of any retired volunteer license issued pursuant to this Section.

14 J. A holder of a retired volunteer dental hygienist license who practices not
15 more than two hundred fifty hours in a calendar year shall be exempt from all
16 continuing education requirements. However, a retired volunteer dental hygienist
17 shall maintain his cardiopulmonary resuscitation (CPR) training.

18 K. The board may charge an administrative fee for issuing a retired volunteer
19 dental hygienist license pursuant to this Section. However, a dental hygienist who
20 possesses an active Louisiana license and who desires to convert the active license
21 to a retired volunteer dental hygienist license shall not pay an administrative fee for
22 the conversion.

23 L. A retired volunteer license shall be valid for a period of two years and
24 shall expire as provided by law.

25 * * *

