

SECOND REGULAR SESSION

# HOUSE BILL NO. 1904

99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WALKER (3).

5574H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 332.081, RSMo, and to enact in lieu thereof two new sections relating to dental faculty permits.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 332.081, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 332.081 and 332.183, to read as follows:

332.081. 1. Notwithstanding any other provision of law to the contrary, hospitals licensed under chapter 197 shall be authorized to employ any or all of the following oral health providers:

(1) A dentist licensed under this chapter for the purpose of treating on hospital premises those patients who present with a dental condition and such treatment is necessary to ameliorate the condition for which they presented such as severe pain or tooth abscesses;

(2) An oral and maxillofacial surgeon licensed under this chapter for the purpose of treating oral conditions that need to be ameliorated as part of treating the underlying cause of the patient's medical needs including, but not limited to, head and neck cancer, HIV or AIDS, severe trauma resulting in admission to the hospital, organ transplant, diabetes, or seizure disorders. It shall be a condition of treatment that such patients are admitted to the hospital on either an in- or out-patient basis; and

(3) A maxillofacial prosthodontist licensed under this chapter for the purpose of treating and supporting patients of a head and neck cancer team or other complex care or surgical team for the fabrication of appliances following ablative surgery, surgery to correct birth anomalies, extensive radiation treatment of the head or neck, or trauma-related surgery.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           2. No person or other entity shall practice dentistry in Missouri or provide dental services  
18 as defined in section 332.071 unless and until the board has issued to the person a certificate  
19 certifying that the person has been duly registered as a dentist in Missouri or **the board has**  
20 **issued such certificate** to an entity that has been duly registered to provide dental services by  
21 licensed dentists and dental hygienists and unless and until the board has issued to the person a  
22 license, to be renewed each period, as provided in this chapter, to practice dentistry or as a dental  
23 hygienist, or has issued to the person or entity a permit, to be renewed each period, to provide  
24 dental services in Missouri. Nothing in this chapter shall be so construed as to make it unlawful  
25 for:

26           (1) A legally qualified physician or surgeon, who does not practice dentistry as a  
27 specialty, from extracting teeth;

28           (2) A dentist licensed in a state other than Missouri from making a clinical  
29 demonstration before a meeting of dentists in Missouri;

30           (3) Dental students in any accredited dental school to practice dentistry under the  
31 personal direction of instructors;

32           (4) Dental hygiene students in any accredited dental hygiene school to practice dental  
33 hygiene under the personal direction of instructors;

34           (5) A duly registered and licensed dental hygienist in Missouri to practice dental hygiene  
35 as defined in section 332.091;

36           (6) A dental assistant, certified dental assistant, or expanded functions dental assistant  
37 to be delegated duties as defined in section 332.093;

38           (7) A duly registered dentist or dental hygienist to teach in an accredited dental or dental  
39 hygiene school;

40           (8) **A person who has been granted a dental faculty permit under section 332.183**  
41 **to practice dentistry in the scope of his or her employment at an accredited dental school,**  
42 **college, or program in Missouri;**

43           (9) A duly qualified anesthesiologist or nurse anesthetist to administer an anesthetic in  
44 connection with dental services or dental surgery; ~~or~~

45 ~~——(9)]~~ (10) A person to practice dentistry in or for:

46           (a) The United States Armed Forces;

47           (b) The United States Public Health Service;

48           (c) Migrant, community, or health care for the homeless health centers provided in  
49 Section 330 of the Public Health Service Act (42 U.S.C. Section ~~[254(b)]~~ **254b**);

50           (d) Federally qualified health centers as defined in Section 1905(1) (42 U.S.C. Section  
51 1396d(1)) of the Social Security Act;

52           (e) Governmental entities, including county health departments; or

53 (f) The United States Veterans Bureau; or

54 ~~[(10)]~~ (11) A dentist licensed in a state other than Missouri to evaluate a patient or  
55 render an oral, written, or otherwise documented dental opinion when providing testimony or  
56 records for the purpose of a civil or criminal action before any judicial or administrative  
57 proceeding of this state or other forum in this state.

58 3. No corporation shall practice dentistry as defined in section 332.071 unless that  
59 corporation is organized under the provisions of chapter 355 or 356 provided that a corporation  
60 organized under the provisions of chapter 355 and qualifying as an organization under 26 U.S.C.  
61 Section 501(c)(3) may only employ dentists and dental hygienists licensed in this state to render  
62 dental services to Medicaid recipients, low-income individuals who have available income below  
63 two hundred percent of the federal poverty level, and all participants in the SCHIP program,  
64 unless such limitation is contrary to or inconsistent with federal or state law or regulation. This  
65 subsection shall not apply to:

66 (1) A hospital licensed under chapter 197 that provides care and treatment only to  
67 children under the age of eighteen at which a person regulated under this chapter provides dental  
68 care within the scope of his or her license or registration;

69 (2) A federally qualified health center as defined in Section 1905(l) of the Social Security  
70 Act (42 U.S.C. Section 1396(d)(1)), or a migrant, community, or health care for the homeless  
71 health center provided for in Section 330 of the Public Health Services Act (42 U.S.C. Section  
72 ~~[254(b)]~~ 254b) at which a person regulated under this chapter provides dental care within the  
73 scope of his or her license or registration;

74 (3) A city or county health department organized under chapter 192 or chapter 205 at  
75 which a person regulated under this chapter provides dental care within the scope of his or her  
76 license or registration;

77 (4) A social welfare board organized under section 205.770, a city health department  
78 operating under a city charter, or a city-county health department at which a person regulated  
79 under this chapter provides dental care within the scope of his or her license or registration;

80 (5) Any entity that has received a permit from the dental board and does not receive  
81 compensation from the patient or from any third party on the patient's behalf at which a person  
82 regulated under this chapter provides dental care within the scope of his or her license or  
83 registration;

84 (6) Any hospital nonprofit corporation exempt from taxation under Section 501(c)(3) of  
85 the Internal Revenue Code, as amended, that engages in its operations and provides dental  
86 services at facilities owned by a city, county, or other political subdivision of the state at which  
87 a person regulated under this chapter provides dental care within the scope of his or her license  
88 or registration.

89 If any of the entities exempted from the requirements of this subsection are unable to provide  
90 services to a patient due to the lack of a qualified provider and a referral to another entity is  
91 made, the exemption shall extend to the person or entity that subsequently provides services to  
92 the patient.

93 4. No unincorporated organization shall practice dentistry as defined in section 332.071  
94 unless such organization is exempt from federal taxation under Section 501(c)(3) of the Internal  
95 Revenue Code of 1986, as amended, and provides dental treatment without compensation from  
96 the patient or any third party on their behalf as a part of a broader program of social services  
97 including food distribution. Nothing in this chapter shall prohibit organizations under this  
98 subsection from employing any person regulated by this chapter.

99 5. A dentist shall not enter into a contract that allows a person who is not a dentist to  
100 influence or interfere with the exercise of the dentist's independent professional judgment.

101 6. A not-for-profit corporation organized under the provisions of chapter 355 and  
102 qualifying as an organization under 26 U.S.C. Section 501(c)(3), an unincorporated organization  
103 operating pursuant to subsection 4 of this section, or any other person should not direct or  
104 interfere or attempt to direct or interfere with a licensed dentist's professional judgment and  
105 competent practice of dentistry. Nothing in this subsection shall be so construed as to make it  
106 unlawful for not-for-profit organizations to enforce employment contracts, corporate policy and  
107 procedure manuals, or quality improvement or assurance requirements.

108 7. All entities defined in subsection 3 of this section and those exempted under  
109 subsection 4 of this section shall apply for a permit to employ dentists and dental hygienists  
110 licensed in this state to render dental services, and the entity shall apply for the permit in writing  
111 on forms provided by the Missouri dental board. The board shall not charge a fee of any kind  
112 for the issuance or renewal of such permit. The provisions of this subsection shall not apply to  
113 a federally qualified health center as defined in Section 1905(l) of the Social Security Act (42  
114 U.S.C. Section 1396d(l)).

115 8. Any entity that obtains a permit to render dental services in this state is subject to  
116 discipline pursuant to section 332.321. If the board concludes that the person or entity has  
117 committed an act or is engaging in a course of conduct that would be grounds for disciplinary  
118 action, the board may file a complaint before the administrative hearing commission. The board  
119 may refuse to issue or renew the permit of any entity for one or any combination of causes stated  
120 in subsection 2 of section 332.321. The board shall notify the applicant in writing of the reasons  
121 for the refusal and shall advise the applicant of his or her right to file a complaint with the  
122 administrative hearing commission as provided by chapter 621.

123 9. A federally qualified health center as defined in Section 1905(l) of the Social Security  
124 Act (42 U.S.C. Section 1396d(l)) shall register with the board. The information provided to the

125 board as part of the registration shall include the name of the health center, the nonprofit status  
126 of the health center, sites where dental services will be provided, and the names of all persons  
127 employed by, or contracting with, the health center who are required to hold a license pursuant  
128 to this chapter. The registration shall be renewed every twenty-four months. The board shall not  
129 charge a fee of any kind for the issuance or renewal of the registration. The registration of the  
130 health center shall not be subject to discipline pursuant to section 332.321. Nothing in this  
131 subsection shall prohibit disciplinary action against a licensee of this chapter who is employed  
132 by, or contracts with, such health center for the actions of the licensee in connection with such  
133 employment or contract. All licensed persons employed by, or contracting with, the health center  
134 shall certify in writing to the board at the time of issuance and renewal of the registration that the  
135 facility of the health center meets the same operating standards regarding cleanliness, sanitation,  
136 and professionalism as would the facility of a dentist licensed by this chapter. The board shall  
137 promulgate rules regarding such standards.

138 10. The board may promulgate rules and regulations to ensure not-for-profit corporations  
139 are rendering care to the patient populations as set forth herein, including requirements for  
140 covered not-for-profit corporations to report patient census data to the board. The provisions of  
141 this subsection shall not apply to a federally qualified health center as defined in Section 1905(l)  
142 of the Social Security Act (42 U.S.C. Section 1396d(l)).

143 11. All not-for-profit corporations organized or operated pursuant to the provisions of  
144 chapter 355 and qualifying as an organization under 26 U.S.C. Section 501(c)(3), or the  
145 requirements relating to migrant, community, or health care for the homeless health centers  
146 provided in Section 330 of the Public Health Service Act (42 U.S.C. Section ~~254(b)~~ **254b**) and  
147 federally qualified health centers as defined in Section 1905(l) (42 U.S.C. Section 1396d(l)) of  
148 the Social Security Act, that employ persons who practice dentistry or dental hygiene in this state  
149 shall do so in accordance with the relevant laws of this state except to the extent that such laws  
150 are contrary to, or inconsistent with, federal statute or regulation.

**332.183. 1. The board may issue a dental faculty permit to an individual who is  
2 employed by an accredited dental school, college, or program in Missouri. The holder of  
3 a dental faculty permit shall be authorized to practice dentistry in accordance with section  
4 332.071 only within accredited dental school programs and only while engaged in teaching  
5 didactic courses or preclinical laboratories or supervising student-delivered patient care  
6 at an accredited Missouri dental school, college, or program.**

7 **2. The holder of a dental faculty permit shall not receive any fee or compensation  
8 for the practice of dentistry, other than any salary or benefits received as part of his or her  
9 employment with the accredited Missouri dental school, college, or program, and shall not  
10 engage in the private practice of dentistry for any fee or compensation.**

11           **3. To qualify for a dental faculty permit, an applicant shall:**

12           **(1) Be a graduate of and hold a degree from a dental school. An applicant shall not**  
13 **be required to be a graduate of an accredited dental school as defined in section 332.011;**

14           **(2) Submit to the board an affidavit from the dean of the accredited Missouri**  
15 **dental school, college, or program confirming the individual's employment as a teacher or**  
16 **instructor at the accredited Missouri dental school, college, or program;**

17           **(3) Submit to the board an affidavit stating that he or she will practice dentistry**  
18 **only within the course and scope of his or her teaching responsibilities and will not practice**  
19 **dentistry for any fee or compensation other than any salary or benefits received as part of**  
20 **his or her employment with the accredited Missouri dental school, college, or program;**

21           **(4) Pass a written jurisprudence examination given by the board on the Missouri**  
22 **dental laws and rules with a grade of at least eighty percent;**

23           **(5) Submit to the board a completed application on forms provided by the board**  
24 **and the applicable fees as determined by the board; and**

25           **(6) Fulfill one of the following requirements:**

26           **(a) Document satisfactory completion of an American Dental Association-**  
27 **accredited postdoctoral training program that is a minimum of twelve continuous months**  
28 **in length; or**

29           **(b) Pass the National Board Examination in accordance with the criteria**  
30 **established by the sponsoring body.**

31           **4. The board may waive the requirements under subdivision (6) of subsection 3 of**  
32 **this section, at the request of the applicant, based on the applicant's portfolio of cases**  
33 **completed and documentation that the applicant held a license to teach dentistry in another**  
34 **state within a year of applying to teach dentistry in Missouri. The board shall waive the**  
35 **requirements under this subsection only if the board determines, based on the information**  
36 **provided in this subsection, that the applicant has a similar level of knowledge and**  
37 **experience as persons who have met the requirements under subdivision (6) of subsection**  
38 **3 of this section.**

39           **5. A dental faculty permit shall be renewed every two years and shall be subject to**  
40 **the same renewal requirements contained under section 332.181.**

41           **6. A dental faculty permit shall be subject to discipline in accordance with section**  
42 **332.321 and shall be automatically cancelled and nullified if the holder ceases to be**  
43 **employed by the accredited Missouri dental school, college, or program.**

44           **7. The board shall promulgate rules to implement the provisions of this section.**  
45 **Any rule or portion of a rule, as that term is defined in section 536.010, that is created**  
46 **under the authority delegated in this section shall become effective only if it complies with**

47 **and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.**  
48 **This section and chapter 536 are nonseverable, and if any of the powers vested with the**  
49 **general assembly pursuant to chapter 536 to review, to delay the effective date, or to**  
50 **disapprove and annul a rule are subsequently held unconstitutional, then the grant of**  
51 **rulemaking authority and any rule proposed or adopted after August 28, 2018, shall be**  
52 **invalid and void.**

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