

1 **SENATE FLOOR VERSION**

2 February 22, 2021

3 SENATE BILL NO. 408

By: Garvin of the Senate

4 and

5 Miller of the House

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7  
8 An Act relating to the practice of dentistry;  
9 amending 59 O.S. 2011, Section 328.21, as last  
10 amended by Section 3, Chapter 397, O.S.L. 2019 (59  
11 O.S. Supp. 2020, Section 328.21), which relates to  
12 application for license; broadening accepted  
13 examinations; amending 59 O.S. 2011, Section 328.23a,  
14 as amended by Section 10, Chapter 229, O.S.L. 2015  
15 (59 O.S. Supp. 2020, Section 328.23a), which relates  
16 to special volunteer license; modifying certain  
17 requirement; amending 59 O.S. 2011, Section 328.25,  
18 as last amended by Section 11, Chapter 363, O.S.L.  
19 2019 (59 O.S. Supp. 2020, Section 328.25), which  
20 relates to oral maxillofacial surgery assistant  
21 permits; modifying certain continuing education  
22 requirements; updating statutory reference; amending  
23 Section 19, Chapter 229, O.S.L. 2015 (59 O.S. Supp.  
24 2020, Section 328.31b), which relates to patient  
record keeping requirements; modifying certain  
records requirement; amending 59 O.S. 2011, Section  
328.32, as last amended by Section 34, Chapter 161,  
O.S.L. 2020 (59 O.S. Supp. 2020, Section 328.32),  
which relates to grounds for penalties; modifying  
certain grounds; adding reference; amending 59 O.S.  
2011, Section 328.33, as last amended by Section 5,  
Chapter 113, O.S.L. 2016 (59 O.S. Supp. 2020, Section  
328.33), which relates to disciplinary action; adding  
certain violations; authorizing certain  
advertisement; amending 59 O.S. 2011, Section  
328.36a, which relates to laboratory prescriptions;  
modifying time period of certain requirement;  
allowing certain referrals; amending 59 O.S. 2011,  
Section 328.41, as last amended by Section 9, Chapter  
397, O.S.L. 2019 (59 O.S. Supp. 2020, Section

1 328.41), which relates to continuing education  
2 requirements; modifying requirements; amending 59  
3 O.S. 2011, Section 328.48, which relates to annual  
4 statements of receipts and expenditures; updating  
5 term; providing for certain electronic transmission;  
6 repealing 59 O.S. 2011, Section 328.29, which relates  
7 to unlawful practices for dental hygienists;  
8 repealing 59 O.S. 2011, Section 328.41, as last  
9 amended by Section 4, Chapter 428, O.S.L. 2019 (59  
10 O.S. Supp. 2020, Section 328.41), which relates to  
11 dentistry; and providing an effective date.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2011, Section 328.21, as  
last amended by Section 3, Chapter 397, O.S.L. 2019 (59 O.S. Supp.  
2020, Section 328.21), is amended to read as follows:

Section 328.21. A. No person shall practice dentistry or  
dental hygiene without first applying for and obtaining a license  
from the Board of Dentistry.

B. Application shall be made to the Board in writing and shall  
be accompanied by the fee established by the rules of the Board,  
together with satisfactory proof that the applicant:

1. Is of good moral character;
2. Is twenty-one (21) years of age, or over, at the time of  
making application to practice dentistry or eighteen (18) years of  
age, or over, if the applicant is to practice dental hygiene;
3. Has passed a written theoretical examination and a clinical  
examination approved by the Board; and

1 4. Has passed a written jurisprudence examination over the  
2 rules and laws affecting dentistry in this state.

3 C. An application from a candidate who desires to secure a  
4 license from the Board to practice dentistry or dental hygiene in  
5 this state shall be accompanied by satisfactory proof that the  
6 applicant:

7 1. Is a graduate of an accredited dental college, if the  
8 applicant is to practice dentistry;

9 2. Is a graduate of an accredited dental hygiene program, if  
10 the applicant is to practice dental hygiene; and

11 3. Has passed all portions of the National Board Dental  
12 Examination or the National Board Dental Hygiene Examination.

13 D. Pursuant to Section 328.15 of this title, the Board may  
14 affiliate as a member state, and accept regional exams including,  
15 but not limited to, the Western Regional Examination Board (WREB),  
16 Central Regional Dental Testing Service (CRDTS), the Commission on  
17 Dental Competency Assessments (CDCA) or another regional exam that  
18 includes the following requirements:

19 a. for dental licensing the following components:

- 20 (1) a fixed prosthetic component of the preparation  
21 of an anterior all porcelain crown and the  
22 preparation of a three-unit posterior bridge,  
23 (2) a periodontal component on a live patient,  
24 (3) an endodontic component,

- 1 (4) an anterior class III and posterior class II
- 2 restorative component on a live patient,
- 3 (5) a diagnosis and treatment planning section as
- 4 approved by the Board, as specified in Section
- 5 328.15 of this title, and
- 6 (6) the Board may determine equivalencies based on
- 7 components of other exams for the purpose of
- 8 credentialing, or

9 b. for dental hygienists licensing the following  
10 components:

- 11 (1) clinical patient treatments with an evaluation of
- 12 specific clinical skills as well as the
- 13 candidate's compliance with professional
- 14 standards during the treatment as approved by the
- 15 Board in Section 325.15 of this title and shall
- 16 include:
  - 17 (a) extra/intra oral assessment,
  - 18 (b) periodontal probing, and
  - 19 (c) scaling/subgingival calculus removal and
  - 20 supragingival deposit removal.

21 E. When the applicant and the accompanying proof are found  
22 satisfactory, the Board shall notify the applicant to appear for the  
23 jurisprudence examination at the time and place to be fixed by the  
24 Board. A dental student or a dental hygiene student in their last

1 semester of a dental or dental hygiene program, having met all other  
2 requirements, may make application and take the jurisprudence  
3 examination with a letter from the dean of the dental school or  
4 director of the hygiene program stating that the applicant is a  
5 candidate for graduation within the next six (6) months.

6 F. The Board shall require every applicant for a license to  
7 practice dentistry or dental hygiene to submit, for the files of the  
8 Board, a copy of a dental degree or dental hygiene degree, an  
9 official transcript, a recent photograph duly identified and  
10 attested, and any other information as required by the Board.

11 G. Any applicant who fails to pass the jurisprudence  
12 examination may apply for a second examination, in which case the  
13 applicant shall pay a reexamination fee as established by the  
14 statutes or rules of the State Dental Act.

15 H. Any applicant who fails to pass the clinical examination as  
16 described in paragraph 4 of subsection C of this section may be  
17 given credit for such subjects as the Board may allow, but such  
18 credits shall be extended only to the succeeding examinations. If  
19 the applicant fails to pass a second examination, before further re-  
20 examination, the Board may require evidence of additional education,  
21 as specified by the Board. After a third examination, the Board may  
22 deny the applicant another examination.

23 I. A dentist or dental hygienist currently licensed in another  
24 state having met the qualifications in paragraphs 1 through 3 of

1 subsections B and C of this section may apply for a license by  
2 credentials upon meeting the following:

3 1. A dentist holding a general dentist license in good standing  
4 and having practiced for at least five hundred (500) hours within  
5 the previous five (5) years immediately prior to application and  
6 having passed a regional examination substantially equivalent to the  
7 requirements for this state may apply for licensure by credentials;

8 2. A dental hygienist holding a dental hygiene license in good  
9 standing and having practiced for at least four hundred twenty (420)  
10 hours within the previous five (5) years immediately prior to  
11 application and having passed a regional examination substantially  
12 equivalent to the requirements for Oklahoma may apply for licensure  
13 by credentials. Applicants for credentialing must include:

14 a. a letter of good standing from all states ever  
15 licensed, and

16 b. any other requirements as set forth by the rules;

17 3. An applicant applying for a dental or dental hygiene license  
18 by credentials shall only be required to pass the jurisprudence  
19 portion of the examination requirements as set forth in paragraph 4  
20 of subsection C of this section; or

21 4. A dental hygienist applying for credentialing for advanced  
22 procedures by providing proof of passage of the advanced procedure  
23 in a WREB, CDCA or CRDTS exam.

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1 J. There shall be two types of advanced procedure available for  
2 dental hygienists upon completion of a CODA approved program or  
3 course that has been approved by the Board:

- 4 1. Administration of nitrous oxide; and
- 5 2. Administration of local anesthesia.

6 K. All licensees and permit holders shall display their current  
7 permit or license in a visible place within the dental office or  
8 treatment facility.

9 SECTION 2. AMENDATORY 59 O.S. 2011, Section 328.23a, as  
10 amended by Section 10, Chapter 229, O.S.L. 2015 (59 O.S. Supp. 2020,  
11 Section 328.23a), is amended to read as follows:

12 Section 328.23a. A. There is established a special volunteer  
13 license for dentists and a special volunteer license for dental  
14 hygienists who are retired from active practice or out-of-state  
15 licensees in active practice who are in the Oklahoma Medical Reserve  
16 Corps or assisting with emergency management, emergency operations,  
17 or hazard mitigation in response to any emergency, man-made  
18 disaster, or natural disaster, or participating in public health  
19 initiatives, disaster drills, and community service events that are  
20 endorsed by a city, county, or state health department in the state  
21 and wish to donate their expertise for the dental care and treatment  
22 of indigent and needy persons of the state. The special volunteer  
23 license shall be:

- 24 1. Issued by the Board of Dentistry to eligible persons;

1        2. Issued without the payment of an application fee, license  
2 fee or renewal fee;

3        3. Issued or renewed without any continuing education  
4 requirements for a period less than one (1) calendar year; and

5        4. Issued for one (1) calendar year or part thereof.

6        B. A dentist or dental hygienist must meet the following  
7 requirements to be eligible for a special volunteer license:

8        1. Completion of a special volunteer dental or dental hygiene  
9 license application, including documentation of the dentist's dental  
10 or dental hygiene school graduation and practice history;

11       2. Documentation that the dentist or dental hygienist has been  
12 previously issued a full and unrestricted license to practice  
13 dentistry or dental hygiene in ~~Oklahoma~~ this state or in another  
14 state of the United States and that he or she has never been the  
15 subject of any reportable medical or dental disciplinary action in  
16 any jurisdiction. If the dentist or dental hygienist is licensed in  
17 more than one state and any license of the licensee is suspended,  
18 revoked, or subject to any agency order limiting or restricting  
19 practice privileges, or has been voluntarily terminated under threat  
20 of sanction, the dentist or dental hygienist shall be ineligible to  
21 receive a special volunteer license;

22       3. Acknowledgement and documentation that the dentist's or  
23 dental hygienist's practice under the special volunteer license will  
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1 be exclusively and totally devoted to providing dental care to needy  
2 and indigent persons in ~~Oklahoma~~ this state;

3 4. Acknowledgement and documentation that the dentist or dental  
4 hygienist will not receive or have the expectation to receive any  
5 payment or compensation, either direct or indirect, for any dental  
6 services rendered under the special volunteer license; and

7 5. A listing of all locations and dates that the person will be  
8 completing volunteer work under the special volunteer license.

9 C. The Board of Dentistry shall have jurisdiction over  
10 dentists, dental hygienists, dental assistants, and dental  
11 technicians who volunteer their professional services in the state.  
12 Dental assistants and dental technicians shall work under the direct  
13 supervision of a dentist.

14 D. Dental assistants may be issued a volunteer permit at the  
15 request of an entity that provides dental services to the needy.  
16 Volunteers in a volunteer initiative who are not dentists or dental  
17 hygienists shall be named and provided on a list to the Board by the  
18 entity hosting the volunteer initiative with any other requirements  
19 as set forth by the Board. The Board shall provide written  
20 documentation to the host entity designating all persons who may  
21 participate in the volunteer initiative, including authorization of  
22 the timetable requested by the host entity for granting licensure  
23 exemption. Any person working under a volunteer dental assistant  
24 permit shall not receive payment or compensation for any services

1 rendered under the volunteer dental assistant permit. Volunteer  
2 dental assistant permits shall be limited to specific dates and  
3 locations of services to be provided.

4 E. All persons providing care shall do so under the provisions  
5 specified in Section 328.1 et seq. of this title or rules  
6 promulgated by the Board. Only those functions authorized by law or  
7 administrative rule shall be performed by the named person approved  
8 by the Board.

9 F. Volunteers shall not use sedation or general anesthesia  
10 during volunteer procedures.

11 G. Volunteers shall use a form to be provided by the Board for  
12 any patient with clear instructions for any and all follow-up care.

13 H. At any time, the Board shall revoke a volunteer license  
14 based on documentation of failure to participate according to state  
15 laws or administrative rules.

16 I. A special volunteer license shall be restricted to services  
17 provided at the locations listed on the application or for a  
18 specific not-for-profit treatment provider group as approved by the  
19 Board.

20 SECTION 3. AMENDATORY 59 O.S. 2011, Section 328.25, as  
21 last amended by Section 11, Chapter 363, O.S.L. 2019 (59 O.S. Supp.  
22 2020, Section 328.25), is amended to read as follows:  
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1 Section 328.25. A. No person shall practice as an oral  
2 maxillofacial surgery assistant without having obtained a permit as  
3 an oral maxillofacial surgery assistant from the Board of Dentistry.

4 B. Any person seeking to obtain an oral maxillofacial surgery  
5 assistant permit must have a supervising oral maxillofacial surgeon  
6 with a current Oklahoma license and complete the requirements set  
7 forth by the Board.

8 C. The application shall be made to the Board in writing and  
9 shall be accompanied by the fee established by the Board, together  
10 with the satisfactory proof that the applicant:

11 1. Passes a background check with criteria established by the  
12 Board; and

13 2. Has completed all of the training requirements for the oral  
14 maxillofacial surgery assistant permit as established by the Board.

15 D. An oral maxillofacial surgery assistant permit shall be  
16 considered a temporary training permit until all of the training  
17 requirements, as established by the Board for each oral  
18 maxillofacial surgery assistant, have been completed and approved by  
19 the Board.

20 E. A temporary training permit for each oral maxillofacial  
21 surgery assistant shall not be extended beyond two (2) years.

22 F. All oral maxillofacial surgery assistants are required to be  
23 under direct supervision or direct visual supervision at all times  
24 by a licensed oral maxillofacial surgeon.

1 G. If an oral maxillofacial surgery assistant is not currently  
2 employed by an oral maxillofacial surgeon, the oral maxillofacial  
3 surgery assistant permit shall automatically revert to a dental  
4 assistant permit as set forth in Section 328.24 of this title and  
5 may be eligible for an expanded function assisting a dentist who  
6 holds a parenteral or pediatric anesthesia permit; provided, only  
7 the dentist may administer anesthesia and assess the patient's level  
8 of sedation. The oral maxillofacial surgery assistant permit may be  
9 reinstated upon employment under a licensed oral maxillofacial  
10 surgeon.

11 H. Any oral maxillofacial surgeon shall notify the Board within  
12 thirty (30) days of an oral maxillofacial surgery assistant no  
13 longer under his or her supervision.

14 I. An applicant for an oral maxillofacial surgery assistant  
15 permit shall provide satisfactory proof of:

16 1. Successful completion of the Dental Anesthesia Assistant  
17 National Certification Examination (DAANCE) provided by the American  
18 Association of Oral Maxillofacial Surgeons (AAOMS) or another  
19 program or examination as approved by the Board;

20 2. A valid BLS certification;

21 3. Employment and completion of a minimum of six (6) months of  
22 training under the direct supervision of a licensed oral  
23 maxillofacial surgeon prior to starting DAANCE or another program or  
24 examination as approved by the Board;

1 4. A standardized course approved by the Board including a  
2 minimum of four (4) hours of didactic training that must include  
3 anatomy, intravenous access or phlebotomy, technique, risks and  
4 complications, and hands-on experience starting and maintaining  
5 intravenous lines on a human or simulator/manikin, and pharmacology;

6 5. Completion of an infection-control course as approved by the  
7 Board.

8 J. An oral maxillofacial surgery assistant who has completed  
9 all the requirements shall receive a permit to practice as an oral  
10 maxillofacial surgery assistant within a dental office, surgery  
11 center, dental ambulatory surgery center or hospital.

12 K. Oral maxillofacial surgery assistants shall be required to  
13 complete ~~twelve (12)~~ eight (8) hours of continuing education every  
14 ~~three (3)~~ two (2) years in classes approved by AAOMS that are  
15 certified by the American Dental Association CERP program or another  
16 program approved by the Board. The continuing education requirement  
17 shall include at least one (1) hour on infection control.

18 L. The anesthesia committee provided pursuant to Section 328.17  
19 of this title may make a recommendation to the Board for an oral  
20 maxillofacial surgery assistant holding a temporary training permit  
21 to substitute training received from another state university,  
22 dental school or technical training institute or training acquired  
23 in a surgery center or hospital while working under the authority of  
24 a licensed physician, to qualify as a partial substitute for the

1 requirements to attain an oral maxillofacial surgery assistant  
2 permit.

3 M. An oral maxillofacial surgery assistant may only accept  
4 delegation from an oral and maxillofacial surgeon:

5 1. Under direct supervision:

6 a. initiate and discontinue an intravenous line for a  
7 patient being prepared to receive intravenous  
8 medications, sedation or general anesthesia, or

9 b. draw up and prepare medications;

10 2. Under direct visual supervision:

11 a. follow instructions of the oral surgeon while acting  
12 as an accessory hand on behalf of the oral surgeon  
13 that is administering the medication and actively  
14 treating the patient. For the purposes of this  
15 section, "administer" means to have the sole  
16 responsibility for anesthesia care, including  
17 determining medicines to be used and the dosage,  
18 timing, route of delivery and administration of  
19 medication and the assessment of the level of  
20 anesthesia and monitoring the physiological results of  
21 such care; provided, only an oral surgeon or dentist  
22 possessing a current general anesthesia permit may  
23 administer or assess the level of sedation or general  
24 anesthesia and monitor the results of such care,

- 1           b. follow instructions of the oral surgeon to adjust the  
2           rate of intravenous fluids to maintain or keep the  
3           line patent or open and adjust an electronic device to  
4           provide medications such as an infusion pump, and  
5           c. assist the oral surgeon by reading, recording vital  
6           signs of a patient receiving deep sedation or general  
7           anesthesia; provided, only an oral surgeon may assess  
8           the level of sedation; and

9           3. Only an oral surgeon shall be responsible to diagnose,  
10          treat, monitor, determine and administer the selection of the drug,  
11          dosage, and timing of all anesthetic medications and care of the  
12          patient through the perioperative period shall rest solely with the  
13          supervising oral and maxillofacial surgeon.

14          4. Nothing in ~~this act~~ the State Dental Act shall be construed  
15          as to allow an oral surgery assistant or dental assistant to  
16          administer anesthesia care to a patient.

17          SECTION 4.           AMENDATORY           Section 19, Chapter 229, O.S.L.  
18          2015 (59 O.S. Supp. 2020, Section 328.31b), is amended to read as  
19          follows:

20          Section 328.31b. A. Every dental office or treatment facility,  
21          whether individual, group or multi-doctor practice operating under a  
22          name, trade name or other professional entity shall maintain written  
23          records on each patient treated at the facility and shall make these  
24          records available to the Board and other regulatory entities or be

1 subject to the penalties as set forth in Section 328.44 of this  
2 title.

3 B. Each licensed dentist shall maintain written records on each  
4 patient that shall contain, at a minimum, the following information  
5 about the patient:

6 1. A health history listing known illnesses, other treating  
7 physicians~~7~~ and current medications prescribed;

8 2. Results of clinical examination and tests conducted,  
9 including the identification, or lack thereof, of any oral pathology  
10 or diseases;

11 3. Treatment plan proposed by the dentist;

12 4. Treatment rendered to the patient. The patient record shall  
13 clearly identify the dentist and the dental hygienist providing the  
14 treatment with the dentist, specialty or dental hygienist license  
15 number. The patient record shall include documentation of any  
16 medications prescribed, administered or dispensed to the patient;

17 5. Whenever patient records are released or transferred, the  
18 dentist releasing or transferring the records shall maintain either  
19 the original records or copies thereof and a notation shall be made  
20 in the retained records indicating to whom the records were released  
21 or transferred; and

22 6. All claims being submitted for insurance must be signed,  
23 stamped or have an electronic signature by the treating dentist.

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1 C. Patient records may be kept in an electronic data format,  
2 provided that the dentist maintains a backup copy of information  
3 stored in the data processing system using disk, tape or other  
4 electronic back-up system and that backup is updated on a regular  
5 basis, at least weekly, to assure that data is not lost due to  
6 system failure. Any electronic data system shall be capable of  
7 producing a hard copy on demand.

8 D. All patient records shall be maintained for seven (7) years  
9 from the date of treatment.

10 E. Each licensed dentist shall retain a copy of each entry in  
11 his or her patient appointment book or such other log, calendar,  
12 book, file or computer data used in lieu of an appointment book for  
13 a period of no less than seven (7) years from the date of each entry  
14 thereon.

15 SECTION 5. AMENDATORY 59 O.S. 2011, Section 328.32, as  
16 last amended by Section 34, Chapter 161, O.S.L. 2020 (59 O.S. Supp.  
17 2020, Section 328.32), is amended to read as follows:

18 Section 328.32. A. The following acts or occurrences by a  
19 dentist shall constitute grounds for which the penalties specified  
20 in Section 328.44a of this title may be imposed by order of the  
21 Board of Dentistry or be the basis for denying a new applicant any  
22 license or permit issued by the Board:

23 1. Pleading guilty or nolo contendere to, or being convicted  
24 of, a felony, a misdemeanor involving moral turpitude, any crime in

1 which an individual would be required to be a registered sex  
2 offender under Oklahoma law, any violent crime, Medicaid fraud,  
3 insurance fraud, identity theft, embezzlement or a violation of  
4 federal or state controlled dangerous substances laws;

5 2. Presenting to the Board a false diploma, license, or  
6 certificate, or one obtained by fraud or illegal means, or providing  
7 other false information on an application or renewal;

8 3. Being, by reason of persistent inebriety or addiction to  
9 drugs, incompetent to continue the practice of dentistry;

10 4. Publishing a false, fraudulent, or misleading advertisement  
11 or statement;

12 5. Authorizing or aiding an unlicensed person to practice  
13 dentistry, to practice dental hygiene, or to perform a function for  
14 which a permit from the Board is required;

15 6. Authorizing or aiding a dental hygienist to perform any  
16 procedure prohibited by the State Dental Act or the rules of the  
17 Board;

18 7. Authorizing or aiding a dental assistant or oral  
19 maxillofacial surgery assistant to perform any procedure prohibited  
20 by the State Dental Act or the rules of the Board;

21 8. Failing to pay fees as required by the State Dental Act or  
22 the rules of the Board;

23 9. Failing to complete continuing education requirements;

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1 10. Representing himself or herself to the public as a  
2 specialist in a dental specialty without holding a dental specialty  
3 license therefor;

4 11. Representing himself or herself to the public as a  
5 specialist whose practice is limited to a dental specialty, when  
6 such representation is false, fraudulent, or misleading;

7 12. Endangering the health of patients by reason of having a  
8 highly communicable disease and continuing to practice dentistry  
9 without taking appropriate safeguards;

10 13. Practicing dentistry in an unsafe or unsanitary manner or  
11 place, including but not limited to repeated failures to follow  
12 Centers for Disease Control and Prevention (CDC) or Occupational  
13 Safety and Health Administration (OSHA) guidelines;

14 14. Being shown to be mentally unsound;

15 15. Being shown to be grossly immoral and that such condition  
16 represents a threat to patient care or treatment;

17 16. Being incompetent to practice dentistry while delivering  
18 care to a patient;

19 17. Committing gross negligence in the practice of dentistry;

20 18. Committing repeated acts of negligence in the practice of  
21 dentistry;

22 19. Offering to effect or effecting a division of fees, or  
23 agreeing to split or divide a fee for dental services with any  
24 person, in exchange for the person bringing or referring a patient;

1       20. Being involuntarily committed to an institution for  
2 treatment for substance abuse, until recovery or remission;

3       21. Using or attempting to use the services of a dental  
4 laboratory or dental laboratory technician without issuing a  
5 laboratory prescription, except as provided in subsection C of  
6 Section 328.36 of this title;

7       22. Aiding, abetting, or encouraging a dental hygienist  
8 employed by the dentist to make use of an oral prophylaxis list, or  
9 the calling by telephone or by use of letters transmitted through  
10 the mails to solicit patronage from patients formerly served in the  
11 office of any dentist formerly employing such hygienist;

12       23. Having more than the equivalent of three full-time dental  
13 hygienists for each dentist actively practicing in the same dental  
14 office;

15       24. Allowing a person not holding a permit or license issued by  
16 the Board to assist in the treatment of a patient without having a  
17 license or permit issued by the Board;

18       25. Knowingly patronizing or using the services of a dental  
19 laboratory or dental laboratory technician who has not complied with  
20 the provisions of the State Dental Act and the rules of the Board;

21       26. Authorizing or aiding a dental hygienist, dental assistant,  
22 oral maxillofacial surgery assistant, dental laboratory technician,  
23 or holder of a permit to operate a dental laboratory to violate any  
24 provision of the State Dental Act or the rules of the Board;

1 27. Willfully disclosing information protected by the Health  
2 Information Portability and Accountability Act, P.L. 104-191;

3 28. Writing a false, unnecessary, or excessive prescription for  
4 any drug or narcotic which is a controlled dangerous substance under  
5 either federal or state law, or prescribing, dispensing or  
6 administering opioid drugs in excess of the maximum limits  
7 authorized in Section 2-309I of Title 63 of the Oklahoma Statutes;

8 29. Prescribing or administering any drug or treatment without  
9 having established a valid dentist-patient relationship;

10 30. Using or administering nitrous oxide gas in a dental office  
11 in an inappropriate or unauthorized manner;

12 31. Engaging in nonconsensual physical contact with a patient  
13 which is sexual in nature, or engaging in a verbal communication  
14 which is intended to be sexually demeaning to a patient;

15 32. Practicing dentistry without displaying, at the dentist's  
16 primary place of practice, the license issued to the dentist by the  
17 Board to practice dentistry and the current renewal certificate;

18 33. Being dishonest in a material way with a patient;

19 34. Failing to retain all patient records for at least seven  
20 (7) years from the date of the last treatment as provided by Section  
21 328.31b of this title, except that the failure to retain records  
22 shall not be a violation of the State Dental Act if the dentist  
23 shows that the records were lost, destroyed, or removed by another,  
24 without the consent of the dentist;

1 35. Failing to retain the dentist's copy of any laboratory  
2 prescription for at least ~~three~~ (3) seven years, except that the  
3 failure to retain records shall not be a violation of the State  
4 Dental Act if the dentist shows that the records were lost,  
5 destroyed, or removed by another, without the consent of the  
6 dentist;

7 36. Allowing any corporation, organization, group, person, or  
8 other legal entity, except another dentist or a professional entity  
9 that is in compliance with the registration requirements of  
10 subsection B of Section 328.31 of this title, to direct, control, or  
11 interfere with the dentist's clinical judgment. Clinical judgment  
12 shall include, but not be limited to, such matters as selection of a  
13 course of treatment, control of patient records, policies and  
14 decisions relating to pricing, credit, refunds, warranties and  
15 advertising, and decisions relating to office personnel and hours of  
16 practice. Nothing in this paragraph shall be construed to:

- 17 a. limit a patient's right of informed consent, or
- 18 b. prohibit insurers, preferred provider organizations  
19 and managed care plans from operating pursuant to the  
20 applicable provisions of the Oklahoma Insurance Code  
21 and the Public Health Code;

22 37. Violating the state dental act of another state resulting  
23 in a plea of guilty or nolo contendere, conviction or suspension or  
24

1 revocation or other sanction by another state board, of the license  
2 of the dentist under the laws of that state;

3 38. Violating or attempting to violate the provisions of the  
4 State Dental Act or the rules of the Board, a state or federal  
5 statute or rule relating to scheduled drugs, fraud, a violent crime  
6 or any crime for which the penalty includes the requirement of  
7 registration as a sex offender in Oklahoma as a principal, accessory  
8 or accomplice;

9 39. Failing to comply with the terms and conditions of an order  
10 imposing suspension of a license or placement on probation issued  
11 pursuant to Section 328.44a of this title;

12 40. Failing to cooperate during an investigation or providing  
13 false information, verbally or in writing, to the Board, the Board's  
14 investigator or an agent of the Board;

15 41. Having multiple administrative or civil actions reported to  
16 the National Practitioner Databank; or

17 42. Failing to complete an approved two-hour course on opioid  
18 and scheduled drug prescribing within one (1) year of obtaining a  
19 license or a violation of a law related to controlled dangerous  
20 substances including prescribing laws pursuant to Section 2-309D of  
21 Title 63 of the Oklahoma Statutes.

22 B. The provisions of the State Dental Act shall not be  
23 construed to prohibit any dentist from displaying or otherwise  
24 advertising that the dentist is also currently licensed, registered,

1 certified, or otherwise credentialed pursuant to the laws of this  
2 state or a nationally recognized credentialing board, if authorized  
3 by the laws of the state or credentialing board to display or  
4 otherwise advertise as a licensed, registered, certified, or  
5 credentialed dentist.

6 SECTION 6. AMENDATORY 59 O.S. 2011, Section 328.33, as  
7 last amended by Section 5, Chapter 113, O.S.L. 2016 (59 O.S. Supp.  
8 2020, Section 328.33), is amended to read as follows:

9 Section 328.33. A. The following acts or occurrences by a  
10 dental hygienist shall constitute grounds for which the penalties  
11 specified in Section 328.44a of this title may be imposed by order  
12 of the Board of Dentistry or be the basis for denying a new  
13 applicant any license or permit issued by the Board:

14 1. Any of the causes now existing in the laws of ~~the State of~~  
15 ~~Oklahoma~~ this state;

16 2. A violation of the provisions of the State Dental Act; or

17 3. A violation of the rules of the Board promulgated pursuant  
18 to the State Dental Act.

19 B. The Board shall also have the power to act upon a petition  
20 by a dental hygienist for reinstatement to good standing. The Board  
21 shall keep a record of the evidence and proceedings in all matters  
22 involving the revocation or suspension of a license or reprimand or  
23 probation of a dental hygienist. The Board shall make findings of  
24 fact and a decision thereon. The Board shall immediately forward a



1 certified copy of the decision to the dental hygienist involved by  
2 registered mail to the last-known business address of the dental  
3 hygienist.

4 C. 1. The decision shall be final unless the dental hygienist  
5 appeals the decision as provided by the State Dental Act.

6 2. If an appeal is not timely taken, the decision shall be  
7 carried out by striking the name of the dental hygienist from the  
8 rolls, or suspending the dental hygienist for the period mentioned  
9 in issuing a reprimand, or otherwise acting as required by the  
10 decision.

11 D. The Board shall have power to revoke or suspend the license,  
12 reprimand, or place on probation a dental hygienist for a violation  
13 of one or more of the following:

14 1. Pleading guilty or nolo contendere to, or being convicted  
15 of, a felony, a misdemeanor involving moral turpitude, or a  
16 violation of federal or state controlled dangerous substances laws;

17 2. Presenting to the Board a false diploma, license or  
18 certificate, or one obtained by fraud or illegal means;

19 3. Being, by reason of persistent inebriety or addiction to  
20 drugs, incompetent to continue the practice of dental hygiene;

21 4. Has been guilty of dishonorable or unprofessional conduct;

22 5. Failure to pay registration fees as provided by the State  
23 Dental Act;

24

1       6. Is a menace to the public health by reason of communicable  
2 disease;

3       7. Being shown to be mentally incapacitated or has been  
4 admitted to a mental institution, either public or private, and  
5 until the dental hygienist has been proven to be mentally competent;

6       8. Being shown to be grossly immoral;

7       9. Being incompetent in the practice of dental hygiene;

8       10. Committing willful negligence in the practice of dental  
9 hygiene;

10       11. Being involuntarily committed for treatment for drug  
11 addiction to a facility, either public or private, and until the  
12 dental hygienist has been proven cured;

13       12. Practicing or attempting to practice dental hygiene in any  
14 place or in any manner other than as authorized by Section 328.34 of  
15 this title;

16       13. Claim the use of any secret or patented methods or  
17 treatments with materials not approved by the Food and Drug  
18 Administration;

19       14. Make statements or advertise as having ability to diagnose  
20 or prescribe for any treatment;

21       15. Perform any services in the mouth other than those  
22 authorized by the Board of Dentistry pursuant to authority conferred  
23 by the State Dental Act;

24

1        16. Attempt to conduct a practice of dental hygiene in any  
2 place or in any manner other than as authorized by Section 328.34 of  
3 this title;

4        17. Attempt to use in any manner whatsoever any oral  
5 prophylaxis list, call list, records, reprints or copies of same or  
6 information gathered therefrom, or the names of patients whom he or  
7 she has formerly treated when serving as an employee in the office  
8 of a dentist for whom he or she was formerly employed;

9        18. Fail to keep prominently displayed in the office of the  
10 dentist for whom he or she is employed his or her current valid  
11 license renewal certificate;

12        19. Using or attempting to use in any manner whatsoever any  
13 oral prophylaxis list, call list, records, reprints or copies of  
14 same, or information gathered therefrom, of the names of patients  
15 whom such dental hygienist might have served in the office of a  
16 prior employer, unless such names appear upon the bona fide call or  
17 oral prophylaxis list of the present employer of the dental  
18 hygienist and were caused to so appear through the legitimate  
19 practice of dentistry, as provided for in the State Dental Act;

20        ~~14.~~ 20. Violating the state dental act of another state  
21 resulting in a plea of guilty or nolo contendere, conviction, or  
22 suspension or revocation of the license of the dental hygienist  
23 under the laws of that state;

24

1 ~~15.~~ 21. Violating or attempting to violate the provisions of  
2 the State Dental Act or the rules of the Board, as a principal,  
3 accessory or accomplice;

4 ~~16.~~ 22. Failing to comply with the terms and conditions of an  
5 order imposing suspension of a license or placement on probation  
6 issued pursuant to Section 328.44a of this title; or

7 ~~17.~~ 23. Any violation that would otherwise be a violation for a  
8 dentist under Section 328.32 of this title.

9 E. A dental hygienist may advertise that he or she is  
10 practicing in the office of the supervising dentist in which he or  
11 she is employed.

12 SECTION 7. AMENDATORY 59 O.S. 2011, Section 328.36a, is  
13 amended to read as follows:

14 Section 328.36a. A. A dentist may utilize a dental laboratory  
15 technician and a dental laboratory to perform or provide dental  
16 laboratory technology. Except as provided in subsection C of  
17 Section 328.36 of this title, a dentist who utilizes the services of  
18 a dental laboratory technician or dental laboratory shall furnish a  
19 laboratory prescription for each patient for whom a work product is  
20 prescribed.

21 B. Laboratory prescriptions issued by a dentist shall be on  
22 forms containing the minimum information required by subsection D of  
23 this section and shall be produced or printed by each dentist. Such  
24 forms shall be provided by the Board of Dentistry or downloaded from

1 the Board's website. All forms shall be completed in full and  
2 signed by the prescribing dentist. The owner of a dental laboratory  
3 shall retain each original laboratory prescription received from a  
4 prescribing dentist and produce the document for inspection and  
5 copying by a member of the Board or by an agent or employee of the  
6 Board, for a period of ~~three (3)~~ seven (7) years from the date of  
7 the laboratory prescription. The prescribing dentist shall retain  
8 the duplicate copy of each laboratory prescription and produce the  
9 document for inspection and copying by a member of the Board or by  
10 an agent or employee of the Board, for a period of ~~three (3)~~ seven  
11 (7) years from the date of the laboratory prescription.

12 C. The patient's name or the identification number of the  
13 laboratory prescription shall appear on all dental models and  
14 correspond to all dental restorations, appliances or other devices  
15 being constructed, reproduced or repaired. Any dental model,  
16 restoration, appliance or other device in the possession of a dental  
17 laboratory technician or dental laboratory without a laboratory  
18 prescription and corresponding number on the model, restoration,  
19 appliance or device shall be prima facie evidence of a violation of  
20 the State Dental Act. After completion, the prescribed work product  
21 shall be returned by the dental laboratory technician or dental  
22 laboratory to the prescribing dentist or the dental office of the  
23 dentist with the name or number of the laboratory prescription  
24 accompanying the invoice.

1 D. At a minimum, prescriptions shall contain the following  
2 information:

3 1. The name and address of the dental laboratory;

4 2. The patient's name and/or identifying number. In the event  
5 such identifying number is used, the name of the patient shall be  
6 written on a copy of the prescription retained by the dentist;

7 3. A description of the work to be completed with diagrams, if  
8 applicable;

9 4. A description of the type of materials to be used;

10 5. The actual date on which the authorization or prescription  
11 was written or completed;

12 6. The signature in ink or by electronic method of the dentist  
13 issuing the prescription and the state license number and address of  
14 such dentist; and

15 7. A section to be completed by the dental laboratory and  
16 returned to the issuing dentist that shall disclose all information  
17 and certify that the information is accurate by including the  
18 signature of a reasonable part of the primary contractor.

19 E. The Board shall make readily available a sample form on the  
20 Board's website for use by any licensee at no cost.

21 F. A dentist may produce, transfer and retain copies of the  
22 form electronically.

23 G. A dentist may refer a patient to a dental laboratory for the  
24 purpose of selecting the shading or matching shades of a prosthetic

1 device being prepared for the dentist to deliver to the patient.  
2 The dentist must maintain a copy of the prescription written for the  
3 lab.

4 SECTION 8. AMENDATORY 59 O.S. 2011, Section 328.41, as  
5 last amended by Section 9, Chapter 397, O.S.L. 2019 (59 O.S. Supp.  
6 2020, Section 328.41), is amended to read as follows:

7 Section 328.41. A. 1. On or before the last day of December  
8 of each year, every dentist, dental hygienist, dental assistant,  
9 oral maxillofacial surgery assistant and other licensee or permit  
10 holders previously licensed or permitted by the Board to practice in  
11 this state, with the exception of those listed in paragraph 2 of  
12 this subsection, shall submit a completed renewal application with  
13 information as may be required by the Board, together with an annual  
14 renewal fee established by the rules of the Board. Upon receipt of  
15 the annual renewal fee, the Board shall issue a renewal certificate  
16 authorizing the dentist, dental hygienist, dental assistant, or oral  
17 maxillofacial surgery assistant to continue the practice of  
18 dentistry or dental hygiene, respectively, in this state for a  
19 period of one (1) year. Every license or permit issued by the Board  
20 shall begin on January 1 and expire on December 31 of each year.

21 2. Beginning July 1, 2017, resident and fellowship permits  
22 shall be valid from July 1 through June 30 of each year and dental  
23 student intern permits shall be valid from August 1 through July 31  
24 of each year.

1 B. ~~Continuing education requirements shall be due at the end of~~  
2 ~~each three-year period ending in 2019 as follows:~~

3 1. Beginning July 1, 2019, ~~through June 30, 2021~~, continuing  
4 education requirements shall be due at the end of each two-year  
5 period ~~as follows:~~

6 a. ~~dentists.~~

7 2. Continuing education requirements for a dentist or dental  
8 hygienist shall consist of:

9 a. a live, in-person cardiopulmonary resuscitation class  
10 approved by the Board,

11 b. an ethics class approved by the Board,

12 c. for a dentist, two (2) hours of opioid and scheduled  
13 drug prescribing, and

14 d. any combination of the following:

15 (1) classes at a university, college or technology  
16 center school accredited by the Commission on  
17 Dental Accreditation (CODA). A dentist or dental  
18 hygienist who teaches one or more classes shall  
19 receive one (1) credit hour of continuing  
20 education per eighteen (18) hours taught,

21 (2) a scientific-based medical treatment and patient  
22 care class approved by the Board,



- 1           (3) any health-related program sponsored by the  
2           Veterans Administration or Armed Forces provided  
3           at a government facility,  
4           (4) formal meetings by national or state professional  
5           organizations for dental providers, or university  
6           sponsored professional alumni clinical meetings  
7           approved by the Board,  
8           (5) organized study clubs,  
9           (6) uncompensated volunteer work at an event approved  
10           by the Board not to exceed seven (7) hours for a  
11           dentist or four (4) hours for a dental hygienist,  
12           or  
13           (7) practice management-related courses not to exceed  
14           four (4) hours for a dentist or two (2) hours for  
15           a dental hygienist.

16        3. Dentists shall complete forty (40) hours, ~~including a one-~~  
17 ~~time two-hour opioid and scheduled drug prescribing class,~~

18           ~~b. hygienists~~ with no more than twenty (20) hours to be  
19           completed online. Hygienists shall complete twenty  
20           (20) hours,

21           ~~e. oral~~ with no more than ten (10) hours to be completed  
22           online. Interactive classes or webinar classes may,  
23           at the discretion of the Board, count as in-person.

1        4. Oral maxillofacial surgery assistants shall complete eight  
2 (8) hours, including one (1) hour of infection control.

3            ~~d. dental~~

4        5. Dental assistants shall have two (2) hours of infection  
5 control, ~~and~~

6            ~~e. any.~~

7        6. Any newly licensed dentist shall complete a two-hour opioid  
8 and scheduled drug prescribing class within one (1) year of  
9 obtaining licensure, ~~and~~

10        ~~2. Any newly licensed dentist shall complete a two-hour opioid~~  
11 ~~and scheduled drug prescribing class within one (1) year of~~  
12 ~~obtaining licensure; and~~

13        ~~3. Beginning in 2020, continuing education requirements shall~~  
14 ~~be due at the end of each two-year period as follows:~~

15            ~~a. dentists shall complete forty (40) hours, including a~~  
16            ~~one-time, two-hour opioid and scheduled drug~~  
17            ~~prescribing class,~~

18            ~~b. hygienists shall complete twenty (20) hours,~~

19            ~~c. OMS assistants shall complete eight (8) hours, and~~

20            ~~d. dental assistants shall have two (2) hours of~~  
21            ~~infection control.~~

22        C. Upon failure of a dentist, dental hygienist, dental  
23 assistant, ~~or~~ oral maxillofacial surgery assistant to pay the annual  
24 renewal fee within two (2) months after January 1, the Board shall

1 notify the dentist, dental hygienist, dental assistant, or oral  
2 maxillofacial surgery assistant in writing by certified mail to the  
3 last-known mailing address of the dentist, dental hygienist, dental  
4 assistant, or oral maxillofacial surgery assistant as reflected in  
5 the records of the Board.

6 D. Any dentist, dental hygienist, dental assistant, or oral  
7 maxillofacial surgery assistant whose license or permit is  
8 automatically canceled by reason of failure, neglect or refusal to  
9 secure the renewal certificate may be reinstated by the Board at any  
10 time within one (1) year from the date of the expiration of the  
11 license, upon payment of the annual renewal fee and a penalty fee  
12 established by the rules of the Board. If the dentist, dental  
13 hygienist, dental assistant, or oral maxillofacial surgery assistant  
14 does not apply for renewal of the license or permit and pay the  
15 required fees within one (1) year after the license has expired,  
16 then the dentist, dental hygienist, dental assistant, or oral  
17 maxillofacial surgery assistant shall be required to file an  
18 application for and take the examination or other requirements  
19 provided for in the State Dental Act or the rules promulgated by the  
20 Board before again commencing practice.

21 E. The Board, by rule, shall provide for the remittance of fees  
22 otherwise required by the State Dental Act while a dentist or dental  
23 hygienist is on active duty with any of the Armed Forces of the  
24 United States.

1 F. In case of a lost or destroyed license or renewal  
2 certificate and upon satisfactory proof of the loss or destruction  
3 thereof, the Board may issue a duplicate, charging therefor a fee  
4 established by the rules of the Board.

5 G. A dentist, dental hygienist, oral maxillofacial surgery  
6 assistant or dental assistant that is in good standing and not under  
7 investigation that notifies the Board in writing of a voluntary  
8 nonrenewal of license or requests retirement status shall have a  
9 right to renew or reinstate his or her license within five (5) years  
10 from the date of notice. The Board may require any training or  
11 continuing education requirements to be met prior to reinstatement.

12 H. A dentist, dental hygienist, oral maxillofacial dental  
13 assistant or dental assistant that has not had an active license or  
14 permit in excess of five (5) years shall be required to apply as a  
15 new applicant.

16 I. Any application for a license or permit that has remained  
17 inactive for more than one (1) year shall be closed.

18 SECTION 9. AMENDATORY 59 O.S. 2011, Section 328.48, is  
19 amended to read as follows:

20 Section 328.48. It shall be the duty of the Board of Dentistry,  
21 annually, to have prepared a statement showing the total amount of  
22 receipts and expenditures of the Board for the preceding twelve (12)  
23 months. The statement shall be properly certified under oath by the  
24

1 president and ~~secretary-treasurer~~ Executive Director of the Board to  
2 the Governor ~~of this state~~ and may be sent electronically.

3 SECTION 10. REPEALER 59 O.S. 2011, Section 328.29, is  
4 hereby repealed.

5 SECTION 11. REPEALER 59 O.S. 2011, Section 328.41, as  
6 last amended by Section 4, Chapter 428, O.S.L. 2019 (59 O.S. Supp.  
7 2020, Section 328.41), is hereby repealed.

8 SECTION 12. This act shall become effective November 1, 2021.

9 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES  
10 February 22, 2021 - DO PASS

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