

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 272 Session of 2013

INTRODUCED BY O'NEILL, HARKINS, MILLARD, HARHAI, SIMMONS, MURT,
D. COSTA, DAVIDSON, CLYMER, KORTZ, PASHINSKI, READSHAW,
EVERETT, GIBBONS AND MILLER, JANUARY 23, 2013

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, JANUARY 23, 2013

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 penalties and for reporting of multiple
13 licensure or certification; and providing for restricted
14 faculty license.

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 and the section is amended by adding a definition to
21 read:

22 Section 2. Definitions.--A person engages in the "Practice
23 of Dentistry," within the meaning of this act, who diagnoses,

1 treats, operates on, or prescribes for any disease, pain or
2 injury, or regulates any deformity or physical condition, of the
3 human teeth, jaws, or associated structures, or conducts a
4 physical evaluation, or administers anesthetic agents, or uses
5 ionizing radiation in the course of dental practice, or who
6 fits, constructs, and inserts any artificial appliance, plate,
7 or denture for the human teeth or jaws, or who holds himself or
8 herself out as being able or legally authorized to do so. The
9 term "Practice of Dentistry" includes the practice of dentistry
10 under a restricted faculty license. The term "Practice of
11 Dentistry" does not include:

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

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

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

22 [(d) The practice of dentistry by a duly licensed
23 practitioner of dentistry of any other state or country for the
24 limited purpose of teaching, including clinical teaching, in a
25 dental school or advanced dental education program in the
26 Commonwealth approved by the board after notification to the
27 board and in accordance with board regulations. Appointments
28 shall not exceed four (4) years and may only be extended if the
29 practitioner receives a license from the board.]

30 (e) The practice of dentistry in clinical departments and

1 laboratories of dental schools and their affiliated facilities
2 approved by the board in the Commonwealth, by bona fide students
3 pursuing a course of study leading to the degree of Doctor of
4 Dental Surgery or Doctor of Dental Medicine.

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

13 * * *

14 "Restricted Faculty License" means a license granted to an
15 individual for the limited purpose of teaching, including
16 clinical teaching, in a dental school or advanced dental
17 education program as a faculty member at an accredited dental
18 school in this Commonwealth.

19 * * *

20 Section 2. Section 3(j.2)(2) of the act, amended July 20,
21 2007 (P.L.327, No.51), is amended and the section is amended by
22 adding a subsection to read:

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

26 * * *

27 (c.1) To provide for and to regulate the licensing, and to
28 license to practice dentistry for the limited purpose of
29 teaching, without examination, any qualified applicant who
30 satisfies the requirements of section 11.11.

1 * * *

2 (j.2) * * *

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

6 (i) Thirty credit hours for a person licensed to practice
7 dentistry, including an individual licensed to practice
8 dentistry under a restricted faculty license.

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

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

14 * * *

15 Section 3. Sections 4(a) and 4.1(a) introductory paragraph,
16 (3), (5), (7), (8) and (11) and (b) (3) and (6) of the act,
17 amended December 27, 1994 (P.L.1361, No.160), are amended to
18 read:

19 Section 4. Fees.--(a) The fee for an applicant for
20 examination and licensure to practice dentistry or as a dental
21 hygienist or certification for an expanded function dental
22 assistant in this Commonwealth shall be fixed by the board by
23 regulation. It shall be the duty of all persons now qualified
24 and engaged in the practice of dentistry and dental hygiene or
25 as a certified expanded function dental assistant, or who shall
26 hereafter be licensed or certified by the board, to renew
27 biennially with said board, and pay for each such biennial
28 renewal a fee which shall be fixed by the board by regulation.
29 The fee for an applicant for a restricted faculty license in
30 this Commonwealth shall be fixed by the board by regulation.

1 * * *

2 Section 4.1. Reason for Refusal, Revocation or Suspension of
3 License or Certificate.--(a) The board shall have authority, by
4 majority action, to refuse, revoke or suspend the license of any
5 dentist [or], dental hygienist or restricted faculty licensee or
6 certificate of an expanded function dental assistant for any or
7 all of the following reasons:

8 * * *

9 (3) Practicing fraud or deceit in obtaining a license to
10 practice dentistry or dental hygiene or restricted faculty
11 license or certificate for expanded function dental assisting or
12 making a false or deceptive biennial renewal with the board.

13 * * *

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

22 * * *

23 (7) Knowingly maintaining a professional connection or
24 association with any person who is in violation of this act or
25 regulations of the board or knowingly aiding, assisting,
26 procuring or advising any unlicensed person to practice
27 dentistry, including practice outside the scope of a restricted
28 faculty license, or dental hygiene or uncertified person for
29 expanded function dental assisting contrary to this act or
30 regulations of the board.

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

8 * * *

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

1 faculty licensee or an expanded function dental assistant with
2 reasonable skill and safety to patients.

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

6 * * *

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

1 * * *

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

7 * * *

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

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

1 not to exceed two thousand dollars (\$2,000) or imprisonment for
2 a term of six months to one year, or both.

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

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

24 * * *

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

29 * * *

30 Section 5. Section 11.5 of the act, amended December 27,

1 1994 (P.L.1361, No.160), is amended to read:

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

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

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

26 (1) Is licensed to practice dentistry by the proper
27 licensing authority of another state, country or territory.

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

30 (3) Has successfully completed a specialty dentistry

1 program, or advanced dental training in a clinical field, that
2 is approved by the Commission on Dental Accreditation of the
3 American Dental Association.

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

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

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

11 (7) Submits a completed application, including supporting
12 documents the board deems necessary and the prescribed fee.

13 (b) A restricted faculty license shall entitle the licensee
14 to engage in direct clinical teaching, which shall include
15 practicing clinical care for the purpose of instructing and
16 teaching students and residents, and supervision of care
17 provided by students and residents, in no more than one area of
18 specialty, only within the educational facilities of a dental
19 school in this Commonwealth that is approved by the Commission
20 on Dental Accreditation of the American Dental Association.

21 Licensees shall be limited to the primary research facilities
22 within the dental school, and may not engage in clinical
23 teaching at satellite or other off-campus sites, such as
24 clinics. The practice of dentistry at any satellite or off-
25 campus site requires an unrestricted license to practice
26 dentistry issued by the board.

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

30 (d) A restricted faculty license may be renewed on a

1 biennial basis. Conditions of renewal, including continuing
2 education, shall be set by the board by regulation.

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