

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, R. MILLER AND CALTAGIRONE, JANUARY 23, 2013

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL
LICENSURE, IN SENATE, AS AMENDED, MAY 7, 2014

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

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

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

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

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

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

1 (e) The practice of dentistry in clinical departments and
2 laboratories of dental schools and their affiliated facilities
3 approved by the board in the Commonwealth, by bona fide students
4 pursuing a course of study leading to the degree of Doctor of
5 Dental Surgery or Doctor of Dental Medicine.

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

14 * * *

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

20 * * *

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

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

27 * * *

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

1 satisfies the requirements of section 11.11.

2 * * *

3 (j.2) * * *

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

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

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

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

15 * * *

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

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

1 ~~this Commonwealth shall be fixed by the board by regulation.~~

2 * * *

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

9 * * *

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

14 * * *

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

23 * * *

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

1 regulations of the board.

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

9 * * *

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

1 practice of dentistry[,] or dental hygiene or as a restricted
2 faculty licensee or an expanded function dental assistant with
3 reasonable skill and safety to patients.

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

7 * * *

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

1 requirement.

2 * * *

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

8 * * *

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

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

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

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

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

25 * * *

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

30 * * *

1 Section 5. Section 11.5 of the act, amended December 27,
2 1994 (P.L.1361, No.160), is amended to read:

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

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

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

28 (1) Is licensed to practice OR TEACH dentistry by the proper <--
29 licensing authority of another state, ~~country~~ or UNITED STATES <--
30 territory.

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

3 (3) Has successfully completed a specialty dentistry
4 program, or advanced dental training in a clinical field, that
5 is approved by the Commission on Dental Accreditation of the
6 American Dental Association.

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

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

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

14 ~~(7) Submits a completed application, including supporting~~ <--
15 ~~documents the board deems necessary and the prescribed fee.~~

16 (7) SUBMITS A COMPLETED APPLICATION AND AN APPLICATION FEE <--
17 IN THE SAME AMOUNT AS THE FEE PRESCRIBED BY THE BOARD FOR
18 LICENSURE TO PRACTICE DENTISTRY.

19 (b) A restricted faculty license shall entitle the licensee
20 to engage in direct clinical teaching, which shall include
21 practicing clinical care for the purpose of instructing and
22 teaching students and residents, and supervision of care
23 provided by students and residents, in no more than one area of
24 specialty, only within the educational facilities of a dental
25 school in this Commonwealth that is approved by the Commission
26 on Dental Accreditation of the American Dental Association.
27 Licensees shall be limited to the primary facilities within the
28 dental school, and may not engage in clinical teaching at
29 satellite or other off-campus sites, such as clinics. The
30 practice of dentistry at any satellite or off-campus site

1 requires an unrestricted license to practice dentistry issued by
2 the board.

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

6 (d) A restricted faculty license may be renewed on a
7 biennial basis. ~~Conditions of renewal, including continuing~~ <--
8 education, shall be set by the board by regulation., UPON <--
9 COMPLETION OF THIRTY HOURS OF CONTINUING EDUCATION AND THE
10 PAYMENT OF A BIENNIAL RENEWAL FEE IN THE SAME AMOUNT AS THE FEE
11 PRESCRIBED BY THE BOARD FOR RENEWAL OF LICENSURE TO PRACTICE
12 DENTISTRY.

13 (E) A RESTRICTED FACULTY LICENSEE SHALL COMPLY WITH THE
14 REQUIREMENTS FOR INSURANCE AS PROVIDED FOR IN THIS ACT.

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