

CS FOR SENATE BILL NO. 92(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/4/11

Referred: Rules

Sponsor(s): SENATOR EGAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to dental hygienists, dentists, dental assistants, dental hygiene, and
2 dentistry."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 08.32.010 is amended to read:

5 **Sec. 08.32.010. License required.** Except as provided in AS 08.32.095, a
6 person may not practice, offer or attempt to practice, or advertise or announce as being
7 prepared or qualified to practice dental hygiene without a license [AND A CURRENT
8 CERTIFICATE OF REGISTRATION].

9 * **Sec. 2.** AS 08.32 is amended by adding a new section to read:

10 **Sec. 08.32.014. Qualifications for license.** (a) An applicant for a license to
11 practice dental hygiene shall

12 (1) provide evidence to the board that the applicant

13 (A) has successfully completed an academic program in dental
14 hygiene of at least two years duration that, at the time of graduation, is

1 accredited by the Commission on Dental Accreditation of the American Dental
2 Association and is approved by the board;

3 (B) has passed a written theory examination of the American
4 Dental Association Joint Commission on National Dental Examinations or an
5 equivalent examination approved by the board;

6 (C) has successfully passed a state or regional dental hygiene
7 clinical examination approved by the board;

8 (D) has not had a license to practice dental hygiene revoked,
9 suspended, or voluntarily surrendered in this state or another state;

10 (E) is not the subject of an adverse decision based on a
11 complaint, investigation, review procedure, or other disciplinary proceeding
12 within the five years immediately preceding application or of an unresolved
13 complaint, investigation, review procedure, or other disciplinary proceeding
14 undertaken by a state, territorial, local, or federal dental licensing jurisdiction;

15 (F) is not the subject of an unresolved or adverse decision
16 based on a complaint, investigation, review procedure, or other disciplinary
17 proceeding undertaken by a state, territorial, local, or federal dental licensing
18 jurisdiction or law enforcement agency that relates to criminal or fraudulent
19 activity, dental malpractice, or negligent dental care and that adversely reflects
20 on the applicant's ability or competence to practice as a dental hygienist or on
21 the safety or well-being of patients;

22 (G) is not the subject of an adverse report from the National
23 Practitioner Data Bank or the American Association of Dental Examiners
24 Clearinghouse for Board Actions that relates to criminal or fraudulent activity
25 or dental malpractice;

26 (H) is not impaired to an extent that affects the applicant's
27 ability to practice as a dental hygienist;

28 (I) has not been convicted of a crime that adversely reflects on
29 the applicant's ability or competency to practice as a dental hygienist or that
30 jeopardizes the safety or well-being of a patient; and

31 (2) meet the other qualifications for a license established by the board

1 by regulation.

2 (b) An applicant for a license to practice dental hygiene may be interviewed in
3 person by the board or a designee of the board. The interview must be recorded. If the
4 application is denied on the basis of the interview, the denial shall be stated in writing,
5 with the reasons for it, and the record shall be preserved.

6 * **Sec. 3.** AS 08.32.030 is amended to read:

7 **Sec. 08.32.030. Licensure by credentials.** The board may provide for the
8 licensing without examination of a dental hygienist who

9 (1) meets the criteria of AS 08.32.014 [AS 08.32.020(a)];

10 (2) submits proof of continued competence as specified in
11 regulations adopted by the board;

12 (3) is currently licensed to practice dental hygiene in another state
13 or territory of the United States; and

14 (4) [HAS SUCCESSFULLY PASSED A STATE OR REGIONAL
15 DENTAL HYGIENE CLINICAL EXAMINATION THAT THE BOARD HAS
16 DETERMINED IS AT LEAST EQUIVALENT IN SCOPE, QUALITY, AND
17 DIFFICULTY TO THE ALASKA CLINICAL EXAMINATION;

18 (3) HAS BEEN IN ACTIVE CLINICAL DENTAL HYGIENE
19 PRACTICE AVERAGING NOT LESS THAN 700 HOURS A YEAR FOR EACH
20 OF THE TWO YEARS IMMEDIATELY PRECEDING APPLICATION FOR
21 STATE LICENSURE;

22 (4) HAS NOT FAILED THE CLINICAL DENTAL HYGIENE
23 EXAMINATION OF THIS STATE;

24 (5) HAS NOT PREVIOUSLY HAD A LICENSE TO PRACTICE
25 DENTAL HYGIENE ISSUED BY ANY STATE OR REGION REVOKED;

26 (6) HAS COMPLETED NOT LESS THAN 14 HOURS OF
27 CONTINUING EDUCATION RELATED TO CLINICAL HYGIENE IN THE TWO
28 YEARS BEFORE FILING AN APPLICATION WITH THE BOARD; THE
29 CONTINUING EDUCATION REQUIRED UNDER THIS PARAGRAPH MUST BE
30 APPROVED BY THE BOARD, THE AMERICAN DENTAL ASSOCIATION, THE
31 ACADEMY OF GENERAL DENTISTRY, OR THE AMERICAN DENTAL

1 HYGIENISTS' ASSOCIATION;

2 (7) pays the fees established [REQUIRED] under AS 08.01.065
3 [AS 08.32.097; AND

4 (8) IS NOT THE SUBJECT OF AN UNRESOLVED COMPLAINT,
5 REVIEW PROCEDURE, OR DISCIPLINARY PROCEEDING UNDERTAKEN BY
6 A DENTAL OR DENTAL HYGIENE LICENSING JURISDICTION].

7 * **Sec. 4.** AS 08.32.070 is amended to read:

8 **Sec. 08.32.070. Licensing [REGISTRATION AND LICENSING] of dental**
9 **hygienists.** The board shall issue [REGISTER] each successful applicant [AND
10 ISSUE THE APPLICANT] a license upon payment of all required fees.

11 * **Sec. 5.** AS 08.32.071 is amended to read:

12 **Sec. 08.32.071. Renewal of license [REGISTRATION].** At least 60 days
13 before expiration of a dental hygienist's license [LICENSEE'S REGISTRATION
14 CERTIFICATE], the Department of Commerce, Community, and Economic
15 Development shall notify the [MAIL A FORM FOR RENEWAL OF
16 REGISTRATION TO EACH] licensed dental hygienist. Each licensee who wishes to
17 renew a dental hygienist's license shall submit a completed license renewal form,
18 [REGISTRATION CERTIFICATE SHALL COMPLETE THE FORM AND
19 RETURN IT WITH] the appropriate fee, and evidence of continued professional
20 competence as required by the board. The Department of Commerce, Community, and
21 Economic Development shall, as soon as practicable, issue a dental hygienist license
22 [REGISTRATION CERTIFICATE] valid for a stated number of years. [EACH
23 LICENSEE SHALL KEEP THE REGISTRATION CERTIFICATE BESIDE OR
24 ATTACHED TO THE LICENSEE'S LICENSE.] Failure to receive notification from
25 the department under this section [THE REGISTRATION FORM] does not exempt
26 a licensee from renewing the licensee's dental hygienist license [REGISTRATION].

27 * **Sec. 6.** AS 08.32.081 is amended to read:

28 **Sec. 08.32.081. Lapse and reinstatement of license.** A licensed dental
29 hygienist who does not pay the renewal [REGISTRATION] fee under AS 08.32.071
30 forfeits the hygienist's license. The board may reinstate the license without
31 examination within two years of the date on which payment was due upon written

1 application, proof of continued professional competence, and payment of all unpaid
2 renewal fees and any penalty fee established under AS 08.01.100(b).

3 * **Sec. 7.** AS 08.32.085(a) is amended to read:

4 (a) The board shall issue a restorative function endorsement to a **licensed**
5 dental hygienist [WHO IS LICENSED UNDER THIS CHAPTER] if the licensee
6 furnishes evidence satisfactory to the board that the licensee has

7 (1) successfully completed a **course offered by or under the auspices**
8 **of a** program accredited by the Commission on Dental Accreditation of the American
9 Dental Association or other **equivalent** course **or program** [OF INSTRUCTION]
10 approved by the board; and

11 (2) passed the Western Regional Examining Board's restorative
12 examination or other equivalent examination approved by the board within the five
13 years preceding the licensee's endorsement application, or the licensee is licensed,
14 **certified, or otherwise permitted** in another state or United States territory to
15 perform restorative functions.

16 * **Sec. 8.** AS 08.32.095(a) is amended to read:

17 (a) A person enrolled as a [FULL-TIME] student in an accredited [SCHOOL
18 OF] dental hygiene **program** may perform dental hygiene procedures as part of a
19 course of study without a license if

20 (1) the procedures are performed under the

21 **(A) general** [DIRECT] supervision of a member of the faculty
22 who is licensed under AS 08.36, **and under the direct or indirect**
23 **supervision of a member of the faculty who is licensed under this chapter;**
24 or

25 **(B)** [UNDER THE] direct **or indirect** supervision of a
26 **member of the faculty who** [TEAM OF LICENSED FACULTY DENTISTS,
27 AT LEAST ONE OF WHOM] is licensed under AS 08.36; and

28 (2) the clinical program has received written approval from the board.

29 * **Sec. 9.** AS 08.32.110(a) is amended to read:

30 (a) The role of the dental hygienist is to assist members of the dental
31 profession in providing oral health care to the public. A person licensed to practice the

1 profession of dental hygiene in the state may,

2 (1) **under the general supervision of a licensed dentist,**

3 **(A) perform preliminary charting and triage to formulate a**
 4 **dental hygiene assessment and dental hygiene treatment plan;**

5 **(B)** remove calcareous deposits, accretions, and stains from the
 6 exposed surfaces of the teeth beginning at the epithelial attachment by scaling
 7 and polishing techniques;

8 **(C) remove marginal overhangs;**

9 **(D) use local periodontal therapeutic agents;**

10 **(E) perform nonsurgical periodontal therapy;**

11 **(F)** [(2) APPLY TOPICAL PREVENTIVE AGENTS;

12 (3) APPLY PIT AND FISSURE SEALANTS;

13 (4) PERFORM ROOT PLANING AND PERIODONTAL SOFT
 14 TISSUE CURETTAGE;

15 (5)] perform other dental operations and services delegated by a
 16 licensed dentist if the dental operations and services are not prohibited by (c) of this
 17 section;

18 **(G)** [AND (6)] if certified by the board [AND UNDER THE
 19 DIRECT, INDIRECT, OR GENERAL SUPERVISION OF A LICENSED
 20 DENTIST], administer local anesthetic agents; **and**

21 **(2) if certified by the board and under the direct or indirect**
 22 **supervision of a licensed dentist, administer and monitor nitrous oxide-oxygen**
 23 **conscious sedation.**

24 * **Sec. 10.** AS 08.32.110(c) is amended to read:

25 (c) This section does not authorize delegation of

26 (1) **dental diagnosis, comprehensive** [DIAGNOSING,] treatment
 27 planning, and writing prescriptions for drugs; writing authorizations for restorative,
 28 prosthetic, or orthodontic appliances;

29 (2) operative or surgical procedures on hard or soft tissues [EXCEPT
 30 AS ALLOWED IN (a)(4) OF THIS SECTION]; or

31 (3) other procedures that require the professional competence and skill

1 of a dentist.

2 * **Sec. 11.** AS 08.32.110(e) is amended to read:

3 (e) This section does not prohibit a **licensed** dental hygienist

4 (1) with an endorsement issued under AS 08.32.085 from performing
5 the activities authorized under AS 08.32.085; [OR]

6 (2) who has entered into a collaborative agreement approved by the
7 board under AS 08.32.115 from performing the activities authorized under the
8 collaborative agreement; **or**

9 **(3) from performing a dental operation, procedure, or service a**
10 **dentist may delegate to a dental assistant under AS 08.36.346.**

11 * **Sec. 12.** AS 08.32.115(a) is amended to read:

12 (a) If the collaborative agreement is approved by the board under (d) of this
13 section, a **licensed** dental hygienist with a minimum of 4,000 documented hours of
14 clinical experience within the five years preceding application for the board's approval
15 may enter into a collaborative agreement with a **licensed** dentist [LICENSED UNDER
16 AS 08.36] in which the licensed dentist authorizes the **licensed** dental hygienist to
17 perform one or more of the following:

18 (1) oral health promotion and disease prevention education;

19 (2) removal of calcareous deposits, accretions, and stains from the
20 surfaces of teeth;

21 (3) application of topical preventive or prophylactic agents, including
22 fluoride varnishes and pit and fissure sealants;

23 (4) polishing and smoothing restorations;

24 (5) removal of marginal overhangs;

25 (6) preliminary charting and triage **to formulate a dental hygiene**
26 **assessment and dental hygiene treatment plan;**

27 (7) **the exposure and development of** radiographs;

28 (8) use of local periodontal therapeutic agents; and

29 (9) performance of nonsurgical periodontal therapy, with or without
30 the administration of local anesthesia, subsequent to a licensed dentist's authorization
31 or diagnosis as specified in the licensed hygienist's collaborative agreement.

1 * **Sec. 13.** AS 08.32.115(d) is amended to read:

2 (d) The board may approve a collaborative agreement between a licensed
3 dentist and a **licensed** dental hygienist. However, the board may not approve more
4 than five collaborative agreements with a licensed dentist, not including any
5 collaborative agreements that have been terminated. A **licensed** dental hygienist shall
6 notify the board of the termination of a collaborative agreement with a licensed
7 dentist.

8 * **Sec. 14.** AS 08.32.160 is amended to read:

9 **Sec. 08.32.160. Grounds for discipline, suspension, or revocation of license.**

10 The board may revoke or suspend the license of a dental hygienist, or may reprimand,
11 censure, or discipline a licensee, if, after a hearing, the board finds that the licensee

12 (1) used or knowingly cooperated in deceit, fraud, or intentional
13 misrepresentation to obtain a license, certificate, or endorsement
14 [REGISTRATION];

15 (2) engaged in deceit, fraud, or intentional misrepresentation in the
16 course of providing or billing for professional services or engaging in professional
17 activities;

18 (3) advertised professional services in a false or misleading manner;

19 (4) has been convicted of a felony or other crime that affects the
20 licensee's ability to continue to practice competently and safely;

21 (5) failed to comply with this chapter, with a regulation adopted under
22 this chapter or under AS 08.36, or with an order of the board;

23 (6) continued to practice after becoming unfit due to

24 (A) professional incompetence;

25 (B) addiction or dependence on alcohol or other drugs that
26 impairs the licensee's ability to practice safely;

27 (C) physical or mental disability;

28 [(D) FAILURE TO KEEP INFORMED OF OR USE
29 CURRENT PROFESSIONAL THEORIES AND PRACTICES;]

30 (7) engaged in lewd or immoral conduct in connection with the
31 delivery of professional service to patients;

1 (8) performed clinical procedures [FOR COMPENSATION] without
2 being under the supervision of a licensed dentist;

3 **(9) did not conform to professional standards in delivering dental**
4 **hygiene services to patients regardless of whether actual injury to the patient**
5 **occurred.**

6 * **Sec. 15.** AS 08.32.180 is amended by adding a new subsection to read:

7 (b) Notwithstanding AS 08.01.075(a)(8), the board may impose a civil fine not
8 to exceed \$25,000 for each violation of this chapter or a regulation adopted under this
9 chapter.

10 * **Sec. 16.** AS 08.32.187(a) is amended to read:

11 (a) This chapter applies to a person who practices, or offers or attempts to
12 practice, as a dental hygienist in the state except

13 (1) a dental hygienist in the military service in the discharge of official
14 duties;

15 (2) a dental hygienist in the employ of the United States Public Health
16 Service, United States Department of Veterans Affairs, **United States Indian Health**
17 **[ALASKA NATIVE] Service, or another agency of the federal government, in the**
18 **discharge of official duties;**

19 (3) a dental hygienist licensed in another state **or jurisdiction** who is
20 teaching or demonstrating clinical techniques at a meeting, seminar, or limited course
21 of instruction sponsored by a dental or dental auxiliary society or association or by an
22 accredited dental or dental auxiliary educational institution;

23 **(4) a dental hygienist employed in the state by an Indian health**
24 **program, as that term is defined in 25 U.S.C. 1603, while providing dental**
25 **hygiene services to a person the Indian health program is entitled to serve under**
26 **25 U.S.C. 450 et seq. (Indian Self-Determination and Education Assistance Act),**
27 **as amended, and 25 U.S.C. 1601 et seq. (Indian Health Care Improvement Act),**
28 **as amended.**

29 * **Sec. 17.** AS 08.32.190 is amended by adding new paragraphs to read:

30 (6) "licensed dental hygienist" means a dental hygienist licensed under
31 this chapter;

1 (7) "licensed dentist" means a dentist licensed under AS 08.36.

2 * **Sec. 18.** AS 08.36.010(a) is amended to read:

3 (a) There is created the Board of Dental Examiners consisting of nine
4 members. Six members shall be licensed dentists who have been engaged in the
5 practice of dentistry in the state for five years immediately preceding appointment,
6 two members shall be dental hygienists licensed under AS 08.32 who have been
7 engaged in the practice of dental hygiene in the state for five years immediately
8 preceding appointment, and one member shall be a public member **who does not have**
9 **a direct financial interest in the health care industry.**

10 * **Sec. 19.** AS 08.36.010 is amended by adding new subsections to read:

11 (c) Each member shall take an oath of office. The president or secretary
12 elected under AS 08.36.030 may administer oaths. The oath shall be filed and
13 preserved in the department.

14 (d) The board shall adopt a seal.

15 * **Sec. 20.** AS 08.36.030 is amended to read:

16 **Sec. 08.36.030. Election of officers.** **(a)** The board shall elect **from among its**
17 **members**

18 **(1)** a president **who is a licensed dentist or licensed dental hygienist;**

19 and

20 **(2)** a secretary.

21 **(b)** **Officers elected under (a) of this section** [FROM AMONG ITS
22 MEMBERS, EACH TO] serve for a term not to exceed two years.

23 * **Sec. 21.** AS 08.36.070 is amended to read:

24 **Sec. 08.36.070. General powers.** (a) The board shall

25 (1) provide for the examination of applicants and **the credentialing**
26 **and licensure of** [ISSUE LICENSES TO] those applicants it finds qualified;

27 (2) **maintain a registry of** [REGISTER] licensed dentists, [AND]
28 licensed dental hygienists, **and certified dental assistants** who are in good standing;

29 (3) affiliate with the American Association of Dental **Boards**
30 [EXAMINERS] and pay annual dues to the association;

31 (4) hold hearings and order the disciplinary sanction of a person who

1 violates this chapter, AS 08.32, or a regulation of the board;

2 (5) supply forms for applications, licenses, permits, certificates, and
3 other papers and records;

4 (6) enforce the provisions of this chapter and AS 08.32 and adopt or
5 amend the regulations necessary to make the provisions of this chapter and AS 08.32
6 effective;

7 (7) adopt regulations ensuring that renewal of **a license or certificate**
8 **under this chapter or a license, certificate, or endorsement under AS 08.32**
9 [REGISTRATION] is contingent upon proof of continued professional competence
10 [BY A LICENSED DENTIST OR LICENSED DENTAL HYGIENIST];

11 (8) [PROVIDE THE DEPARTMENT WITH THE REQUIREMENTS
12 FOR PROOF OF CONTINUED PROFESSIONAL COMPETENCE AND REQUEST
13 THE DEPARTMENT TO MAKE THESE REQUIREMENTS AVAILABLE TO
14 EACH LICENSED DENTIST AND LICENSED DENTAL HYGIENIST AT LEAST
15 ONE YEAR BEFORE THE DATE ON WHICH THE DENTIST OR DENTAL
16 HYGIENIST MUST RENEW REGISTRATION;

17 (9)] at least annually, cause to be published **on the Internet and** in a
18 newspaper of general circulation in each major city in the state a summary of
19 disciplinary actions the board has taken during the preceding calendar year;

20 **(9)** [(10)] issue permits or certificates to licensed dentists, licensed
21 dental hygienists, and dental assistants who meet standards determined by the board
22 for specific procedures that require specific education and training [;

23 (11) REGULATE THE REENTRY INTO PRACTICE OF INACTIVE
24 DENTISTS AND DENTAL HYGIENISTS;

25 (12) REQUIRE, AS A CONDITION OF A LICENSE OR LICENSE
26 RENEWAL ISSUED BY THE BOARD, THAT AN APPLICANT OR LICENSEE
27 HAS, AT THE TIME OF LICENSING OR RENEWAL AND MAINTAINS
28 THROUGHOUT THE PERIOD OF A LICENSE, CURRENT CERTIFICATION IN
29 CARDIOPULMONARY RESUSCITATION TECHNIQUES, EXCEPT THAT THE
30 BOARD MAY WAIVE THIS REQUIREMENT UNDER AN AGREEMENT WITH
31 THE APPLICANT OR LICENSEE IF THE APPLICANT OR LICENSEE

1 DOCUMENTS, TO THE SATISFACTION OF THE BOARD, THE EXISTENCE OF
 2 A PHYSICAL IMPAIRMENT THAT RESULTS IN AN INABILITY TO BE
 3 CERTIFIED IN CARDIOPULMONARY RESUSCITATION TECHNIQUES AND
 4 THE AGREEMENT SPECIFIES THAT THE APPLICANT OR LICENSEE WILL
 5 ENSURE THAT ANOTHER PERSON WHO IS CERTIFIED IN
 6 CARDIOPULMONARY RESUSCITATION TECHNIQUES WILL BE IN THE
 7 SAME ROOM AS THE APPLICANT OR LICENSEE WHENEVER THE
 8 APPLICANT OR LICENSEE IS PRACTICING DENTISTRY ON A LIVING
 9 PATIENT WHO IS ALSO PRESENT; THE BOARD MAY INCLUDE IN THE
 10 AGREEMENT AN EXPIRATION DATE OR PROVIDE THAT THE AGREEMENT
 11 REMAINS IN EFFECT UNTIL REVIEWED BY THE BOARD].

12 (b) The board may

13 (1) order a licensed dentist or licensed dental hygienist to submit to a
 14 reasonable physical or mental examination if the dentist's or the dental hygienist's
 15 physical or mental capacity to practice safely is at issue; [AND]

16 (2) authorize a designee of the board or the board's investigator
 17 [ITS REPRESENTATIVE] to inspect the practice facilities or patient or professional
 18 records of a dentist at reasonable times and in a reasonable manner to monitor
 19 compliance with this chapter and with AS 08.32; and

20 (3) delegate the board's powers to act, hear, and decide matters as
 21 authorized by AS 44.62.

22 * **Sec. 22.** AS 08.36 is amended by adding a new section to read:

23 **Sec. 08.36.073. Investigator.** After consulting with the board, the department
 24 shall employ a person who is not a member of the board as the investigator for the
 25 board. The investigator shall

26 (1) conduct investigations into alleged violations of this chapter and
 27 into alleged violations of regulations and orders of the board;

28 (2) at the request of the board, conduct investigations based on
 29 complaints filed with the department or with the board; and

30 (3) be directly responsible and accountable to the board, except that
 31 only the department has authority to terminate the investigator's employment and the

1 department shall provide day-to-day and administrative supervision of the
2 investigator.

3 * **Sec. 23.** AS 08.36.075(a) is amended to read:

4 (a) **The** [SUBJECT TO (b) OF THIS SECTION, THE] board shall establish
5 standards **that comply with applicable federal law** for the registration, **use,** and
6 inspection of dental radiological equipment, including standards for record keeping
7 relating to the control panels and the use of the equipment. The **board may charge a**
8 **fee for dental radiological equipment registered under this section** [INSPECTION
9 STANDARDS ADOPTED BY THE BOARD MUST REQUIRE THAT AN
10 INSPECTION BE PERFORMED BY A PERSON WHO HAS QUALIFICATIONS
11 EQUIVALENT TO THE QUALIFICATIONS ESTABLISHED AS OF
12 SEPTEMBER 7, 1998, IN THE "APPLICANT PROFILE AND JOB
13 QUALIFICATION SUMMARY" FOR A STATE RADIOLOGICAL HEALTH
14 SPECIALIST I].

15 * **Sec. 24.** AS 08.36.091 is amended to read:

16 **Sec. 08.36.091. Records and reports.** The board shall maintain

17 (1) a record of its proceedings;

18 (2) a **registry** [REGISTER] containing the name, office and home
19 addresses, and other information considered necessary by the board [,] of each person
20 licensed as a dentist or dental hygienist **or certified as a dental assistant,** [AND] a
21 **registry** [REGISTER] of the licenses, **certificates, and endorsements** revoked by the
22 board, and information on the status of each licensee **and each certified dental**
23 **assistant.**

24 * **Sec. 25.** AS 08.36.100 is amended to read:

25 **Sec. 08.36.100. License required.** Except as provided in AS 08.36.238, a
26 person may not practice, or attempt to practice, dentistry without a license [AND A
27 CURRENT CERTIFICATE OF REGISTRATION].

28 * **Sec. 26.** AS 08.36.110 is amended to read:

29 **Sec. 08.36.110. Qualifications for license.** An applicant for a license to
30 practice dentistry shall

31 (1) provide certification to the board that the applicant

1 (A) is a graduate of a dental school that, at the time of
2 graduation, is approved [ACCREDITED] by the board [COMMISSION ON
3 ACCREDITATION OF THE AMERICAN DENTAL ASSOCIATION];

4 (B) [HOLDS A CERTIFICATE FROM THE AMERICAN
5 DENTAL ASSOCIATION JOINT COMMISSION ON NATIONAL
6 DENTAL EXAMINATIONS THAT THE APPLICANT] has successfully
7 passed a [THE] written examination approved [EXAMINATIONS GIVEN]
8 by the board [COMMISSION];

9 (C) has not had a license to practice dentistry revoked,
10 suspended, or voluntarily surrendered in this state or another state;

11 (D) is not the subject of an adverse decision based upon a
12 complaint, investigation, review procedure, or other disciplinary proceeding
13 within the five years immediately preceding application, or of an unresolved
14 complaint, investigation, review procedure, or other disciplinary proceeding,
15 undertaken by a state, territorial, local, or federal dental licensing jurisdiction
16 [OR A DENTAL SOCIETY];

17 (E) is not the subject of an unresolved or an adverse decision
18 based upon a complaint, investigation, review procedure, or other disciplinary
19 proceeding, undertaken by a state, territorial, local, or federal dental licensing
20 jurisdiction [, DENTAL SOCIETY,] or law enforcement agency that relates to
21 criminal or fraudulent activity, dental malpractice, or negligent dental care and
22 that adversely reflects on the applicant's ability or competence to practice
23 dentistry or on the safety or well-being of patients;

24 (F) is not the subject of an adverse report from the National
25 Practitioner Data Bank or the American Association of Dental Boards
26 [EXAMINERS] Clearinghouse for Board Actions that relates to criminal or
27 fraudulent activity, or dental malpractice;

28 (G) is not impaired to an extent that affects the applicant's
29 ability to practice dentistry;

30 (H) has not been convicted of a crime that adversely reflects on
31 the applicant's ability or competency to practice dentistry or that jeopardizes

1 the safety or well-being of a patient;

2 (2) pass, to the satisfaction of the board, written, clinical, and other
3 examinations administered or approved by the board; and

4 (3) meet the other qualifications for a license established by the board
5 by regulation.

6 * **Sec. 27.** AS 08.36.110 is amended by adding a new subsection to read:

7 (b) An applicant for licensure shall be interviewed in person by the board or
8 by a member of the board before a license is issued. The interview must be recorded.
9 If the application is denied on the basis of the interview, the denial shall be stated in
10 writing, with the reasons for it, and the record shall be preserved.

11 * **Sec. 28.** AS 08.36.234(a) is repealed and reenacted to read:

12 (a) The board may waive the examination requirement and license by
13 credentials if the dentist applicant meets the requirements of AS 08.36.110, submits
14 proof of continued competence as required by regulation, pays the required fee, and
15 has

16 (1) an active license from a board of dental examiners established
17 under the laws of a state or territory of the United States issued after thorough
18 examination; or

19 (2) passed an examination as specified by the board in regulations.

20 * **Sec. 29.** AS 08.36.234(b) is amended to read:

21 (b) A dentist applying for licensure without [CLINICAL] examination is
22 responsible for providing to the board all materials required by [THIS SECTION OR
23 BY] the board to implement this section to establish eligibility for a license without
24 [CLINICAL] examination. In addition to the grounds for revocation of a license under
25 AS 08.36.315, the board may revoke a license issued without [A CLINICAL]
26 examination upon evidence of misinformation or substantial omission.

27 * **Sec. 30.** AS 08.36.238(a) is amended to read:

28 (a) A person enrolled as a [FULL-TIME] student in an accredited school of
29 dentistry may perform procedures as part of a course of study without a license if

30 (1) the procedures are performed under the direct supervision of a
31 member of the faculty who is licensed under this chapter, or under the direct

1 supervision of a team of licensed faculty dentists, at least one of whom is licensed
2 under this chapter; and

3 (2) the clinical program has received written approval from the board.

4 * **Sec. 31.** AS 08.36.250(a) is amended to read:

5 (a) At least 60 days before expiration of a **license issued under this chapter**
6 [LICENSEE'S REGISTRATION CERTIFICATE], the department shall **notify the**
7 [MAIL A FORM FOR RENEWAL OF REGISTRATION TO EACH] licensed
8 dentist. A licensee who wishes to renew a license shall **submit a completed license**
9 **renewal form,** [COMPLETE THE FORM AND RETURN IT WITH] the appropriate
10 fee, and evidence of continued professional competence as required by the board. The
11 department shall, as soon as practicable, issue a **new license** [REGISTRATION
12 CERTIFICATE] valid for a stated number of years. [A LICENSEE SHALL KEEP
13 THE REGISTRATION CERTIFICATE BESIDE OR ATTACHED TO THE
14 LICENSEE'S LICENSE.] Failure to receive **notification from the department under**
15 **this subsection** [THE REGISTRATION FORM] does not exempt a licensee from
16 renewing **a license to practice dentistry under this chapter** [REGISTRATION].

17 * **Sec. 32.** AS 08.36.250 is amended by adding a new subsection to read:

18 (c) A licensed dentist who does not pay the license renewal fee forfeits the
19 dentist's license. The board may reinstate the license without examination within two
20 years after the date on which payment was due upon written application, proof of
21 continued professional competence, and payment of all unpaid renewal fees and any
22 penalty fee established under AS 08.01.100(b).

23 * **Sec. 33.** AS 08.36.315 is amended to read:

24 **Sec. 08.36.315. Grounds for discipline, suspension, or revocation of license.**

25 The board may revoke or suspend the license of a dentist, or may reprimand, censure,
26 or discipline a dentist, or both, if the board finds after a hearing that the dentist

27 (1) used or knowingly cooperated in deceit, fraud, or intentional
28 misrepresentation to obtain a license;

29 (2) engaged in deceit, fraud, or intentional misrepresentation in the
30 course of providing or billing for professional dental services or engaging in
31 professional activities;

1 (3) advertised professional dental services in a false or misleading
2 manner;

3 (4) received compensation for referring a person to another dentist or
4 dental practice;

5 (5) has been convicted of a felony or other crime that affects the
6 dentist's ability to continue to practice dentistry competently and safely;

7 (6) engaged in the performance of patient care, or permitted the
8 performance of patient care by persons under the dentist's supervision, **regardless of**
9 **whether actual injury to the patient occurred,**

10 (A) that **did** [DOES] not conform to minimum professional
11 standards of dentistry [REGARDLESS OF WHETHER ACTUAL INJURY
12 TO THE PATIENT OCCURRED]; **or**

13 (B) **when the dentist, or a person under the supervision of**
14 **the dentist, did not have the permit or certificate required under AS 08.32**
15 **or this chapter;**

16 (7) failed to comply with this chapter, with a regulation adopted under
17 this chapter, or with an order of the board;

18 (8) continued to practice after becoming unfit due to

19 (A) professional incompetence;

20 (B) [FAILURE TO KEEP INFORMED OF OR USE
21 CURRENT PROFESSIONAL THEORIES OR PRACTICES;

22 (C)] addiction or dependence on alcohol or other drugs that
23 **impair** [IMPAIRS] the dentist's ability to practice safely;

24 (C) [(D)] physical or mental disability;

25 (9) engaged in lewd or immoral conduct in connection with the
26 delivery of professional service to patients;

27 (10) permitted a dental hygienist or dental assistant who is employed
28 by the dentist or working under the dentist's supervision to perform a dental procedure
29 in violation of AS 08.32.110 or **AS 08.36.346** [AS 08.36.070(a)(10)];

30 (11) failed to report to the board a death that occurred on the premises
31 used for the practice of dentistry within 48 hours;

1 **(12) falsified or destroyed patient or facility records or failed to**
 2 **maintain a patient or facility record for at least seven years after the date the**
 3 **record was created.**

4 * **Sec. 34.** AS 08.36.344(a) is amended to read:

5 (a) The board shall issue a restorative function certificate to a dental assistant
 6 if the dental assistant furnishes evidence satisfactory to the board that the dental
 7 assistant has

8 (1) successfully completed a **course offered by or under the auspices**
 9 **of a** program accredited by the Commission on Dental Accreditation of the American
 10 Dental Association or other **equivalent** course **or program** [OF INSTRUCTION]
 11 approved by the board; and

12 (2) passed the Western Regional Examining Board's restorative
 13 examination or other equivalent examination approved by the board within the five
 14 years preceding the dental assistant's certificate application, or the dental assistant has
 15 legal authorization from another state or jurisdiction to perform restorative functions.

16 * **Sec. 35.** AS 08.36 is amended by adding a new section to read:

17 **Sec. 08.36.347. Exemption from certificate requirement.** (a) A person
 18 enrolled in a program or course of study may perform dental assisting procedures as
 19 part of that program or course of study without a certificate if the procedures are
 20 performed

21 (1) under the direct supervision of a member of the faculty who is
 22 licensed under this chapter or AS 08.32; and

23 (2) as part of a clinical program that has received written approval
 24 from the board.

25 (b) A person performing dental assisting procedures under (a) of this section is
 26 subject to all other provisions of this chapter and statutes and regulations that apply to
 27 the practice of dental assisting by a certified dental assistant.

28 * **Sec. 36.** AS 08.36.350(a) is amended to read:

29 (a) This chapter applies to a person who practices, or offers or attempts to
 30 practice, dentistry in the state except

31 (1) a dental surgeon or dentist in the military service in the discharge

1 of official duties;

2 (2) a dentist in the employ of the United States Public Health Service,
3 United States Department of Veterans Affairs, United States Indian Health
4 [ALASKA NATIVE] Service, or other agency of the federal government, in the
5 discharge of official duties;

6 (3) [A PHYSICIAN OR SURGEON;

7 (4) A DENTIST PROVIDING CARE IN AN ISOLATED AREA BY
8 AUTHORITY OF A PERMIT ISSUED UNDER AS 08.36.271;

9 (5)] a dentist licensed in another state who is teaching or
10 demonstrating clinical techniques at a meeting, seminar, or limited course of
11 instruction sponsored by a dental or dental auxiliary society or association or by an
12 accredited dental or dental auxiliary educational institution;

13 (4) [(6)] a dentist licensed in another state who provides emergency
14 care to an injured or ill person who reasonably appears to the dentist to be in
15 immediate need of emergency aid in order to avoid serious harm or death if the care is
16 provided without remuneration;

17 (5) a dentist employed in the state by an Indian health program, as
18 that term is defined in 25 U.S.C. 1603, while providing dental services to a person
19 the Indian health program is entitled to serve under 25 U.S.C. 450 et seq. (Indian
20 Self-Determination and Education Assistance Act), as amended, and 25 U.S.C.
21 1601 et seq. (Indian Health Care Improvement Act), as amended.

22 * **Sec. 37.** AS 08.36 is amended by adding a new section to read:

23 **Sec. 08.36.367. Ownership of a dental office or facility.** (a) Only a person
24 who holds a valid license issued under this chapter may own, operate, or maintain a
25 dental practice, office, or clinic. This restriction does not apply to

26 (1) a labor organization or a nonprofit organization formed by or on
27 behalf of a labor organization for the purpose of providing dental services;

28 (2) an institution of higher education recognized by the board;

29 (3) a local government;

30 (4) an institution or program accredited by the Commission on Dental
31 Accreditation of the American Dental Association to provide education and training;

1 (5) a nonprofit corporation organized under state law to provide dental
2 services to rural areas and medically underserved populations of migrant, rural
3 community, or homeless individuals under 42 U.S.C. 254b or 254c or health centers
4 qualified under 42 U.S.C. 1396d(l)(2)(B) operating in compliance with other
5 applicable state and federal law;

6 (6) a nonprofit charitable corporation described in 26 U.S.C. 501(c)(3)
7 (Internal Revenue Code) and determined by the board to be providing dental services
8 by volunteer licensed dentists to populations with limited access to dental care at no
9 charge or a substantially reduced charge.

10 (b) For the purpose of owning or operating a dental practice, office, or clinic,
11 an entity described in (a) of this section shall

12 (1) name a licensed dentist as its dental director, who shall be subject
13 to the provisions of AS 08.36.315 and 08.36.317 in the capacity of dental director; the
14 dental director, or an actively licensed dentist designated by the director, shall have
15 responsibility for the entity's practice of dentistry; and

16 (2) maintain current records of the names of licensed dentists who
17 supervise dental hygienists, dental assistants, and other personnel involved in direct
18 patient care who are employed by the entity; the records must be available to the board
19 upon written request.

20 (c) Nothing in this chapter precludes a person or entity not licensed by the
21 board from

22 (1) ownership or leasehold of any tangible or intangible assets used in
23 a dental office or clinic, including real property, furnishings, equipment, and
24 inventory, but not including dental records of patients related to clinical care;

25 (2) employing or contracting for the services of personnel other than
26 licensed dentists; or

27 (3) management of the business aspects of a dental office or clinic that
28 do not include the practice of dentistry.

29 (d) If all of the ownership interests of a dentist or dentists in a dental office or
30 clinic are held by an administrator, executor, personal representative, guardian,
31 conservator, or receiver of the estate of a former shareholder, member, or partner, the

1 administrator, executor, personal representative, guardian, conservator, or receiver
 2 may retain the ownership interest for a period of 24 months following the creation of
 3 the ownership interest. The board shall extend the ownership period for an additional
 4 24 months upon 30 days' notice and may grant additional extensions upon reasonable
 5 request.

6 (e) In this section, "labor organization" means an organization, not for
 7 pecuniary profit, constituted wholly or partly to bargain collectively or deal with
 8 employers, including the state and its political subdivisions, concerning grievances,
 9 terms or conditions of employment, or other mutual aid or protection in connection
 10 with employees that has existed for at least three years and that has a constitution and
 11 bylaws.

12 * **Sec. 38.** AS 08.36.370 is amended by adding new paragraphs to read:

13 (7) "certified dental assistant" means a person who holds a current
 14 coronal polishing certificate or restorative function certificate issued by the board;

15 (8) "licensed dental hygienist" means a dental hygienist licensed under
 16 AS 08.32;

17 (9) "licensed dentist" means a dentist licensed under this chapter.

18 * **Sec. 39.** AS 08.32.020, 08.32.035, 08.32.040, 08.32.060, 08.32.097, 08.32.100, 08.32.120,
 19 08.32.130, 08.32.140, 08.32.190(2); AS 08.36.075(b), 08.36.075(c), 08.36.075(d),
 20 08.36.075(e), 08.36.114, 08.36.230, 08.36.244, 08.36.246, 08.36.247, 08.36.248, 08.36.260,
 21 08.36.271, and 08.36.290 are repealed.

22 * **Sec. 40.** The uncodified law of the State of Alaska is amended by adding a new section to
 23 read:

24 REVISOR'S INSTRUCTION. The revisor of statutes shall change the catch line of
 25 AS 08.36.250 from "Renewal of registration" to "License renewal, lapse, and reinstatement."