WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955

ENROLLED

SENATE BILL NO. 154

(By Mr.)

PASSED

January 15, 1955

In Effect, Passage
ENROLLED

Senate Bill No. 154
(By MR. VASSAR)

[Passed February 15, 1955; in effect ninety days from passage.]

AN ACT to amend and reenact sections three, four, five, six, seven, eleven, thirteen, fourteen and eighteen, article four, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend said article by adding thereto three new sections, designated sections four-a, seventeen-a and seventeen-b, all relating to dentists and dental hygienists.

Be it enacted by the Legislature of West Virginia:

That sections three, four, five, six, seven, eleven, thirteen, fourteen and eighteen, article four, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended be amended and reenacted, and that said article be amended by adding thereto three new sections, designated sec-
tions four-a, seventeen-a and seventeen-b, all to read as fol-
lows:

Section 3. Who Deemed Practitioner of Dental Hy-
giene; Scope of Practice.—A person shall be deemed to
be practicing dental hygiene within the meaning of this
article, who under the supervision of a licensed dentist,
removes deposits, accretions and stains from the surface
of the teeth, makes topical applications of drugs to the
exposed surfaces of the teeth, takes dental x-rays and
instructs patients in the practice of dental hygiene pro-
cedures.

Sec. 4. Board of Dental Examiners.—There shall be
a state board of dental examiners, known as the “West
Virginia Board of Dental Examiners,” which shall con-
sist of five practicing dentists, who shall be appointed
by the governor, by and with the advice and consent
of the Senate. Each member of the board at the time
of his appointment, and during his term as such member,
shall be both a resident and licensed dentist of this state,
and shall have been both such resident and licensed
dentist, for a period of not less than five years immedia-
11 ately preceding his appointment: *Provided, however,*
12 That no person shall be eligible for appointment to said
13 board who is in any way connected with or interested
14 in any dental college or dental department of any insti-
15 tution of learning or in a dental supply business.
16 The members of the board in office on the date this
17 section takes effect shall, unless sooner removed, con-
18 tinue to serve until their respective terms expire and
19 until their successors have been appointed and have
20 qualified. On or before the first day of July, after this
21 section takes effect, and on or before the first day in
22 July in each year thereafter, the governor shall appoint
23 one member to serve a term of five years commencing
24 on the said first day of July and any member shall be
25 eligible for reappointment for one additional consecu-
26 tive term.

Sec. 4-a. *Powers and Duties.*—The West Virginia board
2 of dental examiners shall examine all qualified appli-
3 cants for license to practice dentistry or dental hygiene,
4 and it shall license all such applicants who are qualified
5 under applicable statutes and who pass the examinations
that may be required by statute or by any legally adopted rule or regulation.

The said board shall have the power to make such examination of all applicants appearing before it for any type of license as may be necessary to determine that the applicant is qualified. The said board shall also have the power to revoke or suspend any license issued by it, for cause, after having given the person whose license is sought to be revoked or suspended, an opportunity to be heard in the manner provided by section eight, article one, chapter thirty of this code. It shall have the power to reinstate any license revoked or suspended by it.

The said board is authorized and empowered to hold and conduct hearings and investigations on the issuance, suspension, revocation, or reinstatement of licenses and on charges of unauthorized practice of dentistry or dental hygiene.

The said board shall have the power to hire, fix the compensation of, and discharge such employees as are necessary for the performance of the powers and duties vested in the said board by law and to expend such sums
as said board may deem necessary to maintain an office
and to carry out and enforce the provisions of this article.

Sec. 5. License Required as Prerequisite to Practice
Dentistry; Exceptions.—Except as otherwise provided in
this section, no person shall practice or offer to practice
dentistry or dental hygiene in this state until a license
for such purpose shall be issued to him by the board of
dental examiners, nor shall any person so practice after
the first anniversary of the issuance of such license until
he shall have in his possession a current renewal certifi-
cate issued by the board.

The board of dental examiners under such regulations
as it may prescribe may issue a temporary permit to
practice dentistry or dental hygiene to graduates of
schools of dentistry or dental hygiene approved by the
board who are certified to the board of directors of dental
clinics established by law, by the chief executive of any
hospital or sanitarium licensed or operated by the state
or by the chief dental officer of the health department
of the state. Such permits shall expire thirty days after
the date of the next examination given by the board for
licenses in dentistry or dental hygiene and shall not be subject to renewal. Such permits shall terminate when the holder thereof ceases to be employed by the person certifying him. A fee of five dollars shall be paid to the board upon issuance of such permit by the person certifying the applicant.

The board of dental examiners under such regulations as it may prescribe may issue a dental intern or dental residency permit to graduates of dental schools approved by the board who are not licensed to practice dentistry in this state and who have not failed an examination for a license to practice dentistry in this state. Applicants for such permits shall be certified to the board by the director of a hospital operated or licensed by the state which maintains a dental intern or residency program. Such permits shall authorize the holder thereof to serve as a dental intern or a dental resident for a period of not more than one year in any hospital licensed or operated by the state which maintains an established dental department under the supervision of a licensed dentist. The holder of such a permit shall function under the
supervision of the dental staff of the hospital and shall limit his practice to patients selected by the hospital. The holder of such a permit shall not be entitled to receive any fee or other compensation other than such salary as may be paid by such hospital. Permits may be revoked by the board for cause and shall expire at the end of one year or on the date the dental internship or residency is discontinued, whichever first occurs. A fee of five dollars shall be paid to the board upon the issuance of such a permit by the hospital nominating him. The board of dental examiners under such regulations as it may prescribe may issue teaching permits to persons who are graduates of a school of dentistry or dental hygiene approved by the board where such persons are not licensed to practice dentistry or dental hygiene in this state. Such permits shall be issued only upon the certification of the dean of a dental school located in this state that the applicant is a bona fide member of the staff of that school. Such permits shall be valid for one year and may be reissued by the board in its discretion. The holder of such a permit shall be entitled to perform
all operations which a person licensed to practice dentistry or dental hygiene in this state would be entitled to perform, but only within the facilities of the dental school and as an adjunct to his teaching functions in such school. A fee of five dollars shall be paid to the board on the issuance of a teaching permit or upon each renewal thereof by the school nominating the applicant. Nothing in this act shall be deemed to prohibit the practice of dentistry or dental hygiene by persons licensed in another state who, at the request of an approved dental school or any regularly organized dental society, may give a clinic at such school or at a scientific meeting of such dental society for the purpose of advancing the professional knowledge of members of the dental profession or members of the student body of a dental school.

Sec. 6. Qualifications of Applicant for License; Examinations; Examination Fee; Licensing.—An applicant for a dental license shall be of good moral character, at least twenty-one years of age at the time of making application, and be a graduate of, and possess an accept-
able dental diploma from the faculty of a dental school approved by the board. The board may require the application to be accompanied by sufficient evidence of these qualifications.

The applicant shall transmit with his application an examination fee of thirty-five dollars, which sum the board is authorized to expend in an investigation of the applicant's qualifications.

An applicant whose application has been accepted by the board shall be given an examination on subjects selected by the board from among those currently being taught in approved dental schools which shall test the qualifications of the applicant to practice dentistry. Such examinations shall be given by the board under rules and regulations promulgated by it.

The board may recognize a certificate granted by the national board of dental examiners in lieu of the written portion of the required examination.

An applicant obtaining a satisfactory grade on such examination and otherwise fulfilling the requirements of the board shall be granted a license by the board to
practice dentistry, which license shall bear a serial num-
ber, the full name of the licensee, the date of issuance
of the license, the seal of the board and the signatures
of a majority of the members of the board.

The board shall not issue a license to any person found
guilty of cheating, deception or fraud in the examination
or on any part of the application. All manuscripts used
in any examination and all applications for licensure
shall be filed for a period of two years by the secretary
of the board for the purpose of reference and inspection.

Sec. 7. Refusal to Issue, Suspension or Revocation of
License; Grounds.—The state board of dental examiners
may refuse to issue a license to practice dentistry or
dental hygiene in this state, or after issuance may sus-
pend or revoke the same, for any of the following causes:

(1) The presentation to the board of any diploma,
license or certificate illegally or fraudulently obtained,
or one obtained from an institution which is not reput-
able, or one obtained from an unrecognized or irregular
institution or state board.

(2) Be guilty of gross ignorance or gross inefficiency
in his profession.
(3) Conviction of a felony; and a certified copy of the record of the court of conviction shall be sufficient proof of such conviction.

(4) Announcing or otherwise holding himself out to the public as a specialist or as being specially qualified in any particular branch of dentistry or as giving special attention to any branch of dentistry or as limiting his practice to any branch of dentistry without first complying with the requirements established by the board of dental examiners for such specialty and having been issued a certificate of qualification in such specialty by the board.

(5) Be guilty of unprofessional conduct. The following acts or any of them shall be conclusively presumed to be unprofessional conduct:

(a) Be guilty of any fraud or deception.

(b) The commission of a criminal operation or conviction of a crime involving moral turpitude.

(c) Chronic or persistent inebriety or addiction to narcotics or drugs.
(d) Be guilty of the violation of any professional confidence or be guilty of disclosing any professional secret.

(e) Be grossly immoral.

(f) Be guilty of employing what are known as "capturers" or "steerers" to obtain business.

(g) The obtaining of any fee by fraud or misrepresentation.

(h) Employ directly or indirectly, or direct or permit any suspended or unlicensed person so employed, to perform operations of any kind or to treat lesions of the human teeth or jaws or correct malposed formations thereof.

(i) Practice, or offer or undertake to practice, dentistry under any firm name or trade name or under any name other than his own true name: Provided, That any licensee may practice under a firm name or partnership name containing nothing but the surname of every member of such firm or partnership.

(j) Professional connection or association with, or lending his name to another, for the illegal practice of dentistry, or professional connection or association with
any person, firm, or corporation, holding himself, them-

selves, or itself out in any manner contrary to this article.

(k) Make use of any advertising relating to the use

of any drug or medicine of unknown formula.

(l) Advertise to practice dentistry or perform any

operation thereunder without causing pain.

(m) Advertise professional superiority or the per-

formance of professional services in a superior manner.

(n) Advertise prices charged for professional service.

(o) Advertise by means of large display, flickering, or

glaring light signs, or contain as a part thereof the repre-

sentation of a tooth, teeth, or bridge work, or any portion

of the human head.

(p) Employ or make use of advertising solicitors or

free publicity press agents.

(q) Advertise to guarantee any dental service.

(r) Advertise in any manner calculated to, or tending

to, deceive or mislead the public: Provided, That such

licensee may announce, by way of a professional card

containing not more than his name, title, degree, office

location, office hours, business telephone number, and
residence address and telephone number, if desired, and
if he limits his practice to a specialty he may announce
it, but such card shall not be greater in any case than
sixteen inches by twenty-two inches in size, and such
information may be inserted in public print when not
more than eight newspaper columns in width and
twenty-five inches in depth; and he may announce his
change of place of business, absence from, or return to,
business in the same manner, and issue appointment
cards to his patients, when the information thereon is
limited to matter pertaining to the time and place of
appointment and that permitted on the professional card,
and he may display his name, title, and degree upon the
windows or doors of his office and by a door plate or
name plate or office directory when the information is
limited to not more than that contained on the profes-
sional card, but the name, title and degree of the licensee
shall not be displayed on said doors, windows, door plates,
and name plates or office directory in lettering greater
in height than seven inches.

The term advertising, as used in this section, shall be
construed to include the use of radio or any loud speaking device or any other similar method or agency.

This entire section is passed in the interest of the public health, safety and welfare and its provisions shall be liberally construed to carry out its object and purpose. Each and every provision of this section is hereby declared to be independent and severable, and should any portion or provision or provisions of this section be held unconstitutional or for any other reason invalid, the remaining portion or portions, or provision or provisions shall not be thereby affected.

Sec. 11. Right of Dentist to Prescribe Drugs and Perform Surgical Operations; Sign Death Certificates; Prescriptions.—A licensed dentist shall have the same rights to prescribe drugs or medicines, perform such surgical operations, administer general or local anaesthetics and use such appliances as may be necessary to the proper treatment of the special class of diseases mentioned in this article as are enjoyed by registered physicians in this state. A licensed dentist shall have the same right to execute and sign a death certificate when such is required
in the course of his practice as is given to licensed physicians by the laws of this state. Druggists of this state shall fill prescriptions of licensed dentists in this state for any drugs necessary for the practice of dentistry.

Sec. 13. Dental Hygienists; Permitted Operations; Revocation of License.—A licensed dentist, or the director of any industrial clinic, school clinic or state industrial clinic, having a dental program under the supervision of a licensed dentist, may employ dental hygienists who shall practice under the supervision of a licensed dentist.

Under such supervision, a dental hygienist may (1) remove deposits, accretions and stains from the surfaces of the teeth, (2) make topical application of drugs to the exposed surface of the teeth, (3) take dental x-rays, and (4) instruct patients in the practice of dental hygiene procedures, but shall not perform any other operation on the teeth or other tissues of the oral cavity.

The state board of dental examiners may suspend or revoke the license of any dental hygienist who shall perform any operation other than those permitted under the
provisions of this section, who shall violate any provision
of this article relating to dental hygienists or who shall
be found guilty of any of the acts enumerated in section
seven of this article.

Sec. 14. Prerequisites to Practice Dental Hygiene; Ex-
amination Fee; Licensing.—No person who has not been
licensed as a dental hygienist in this state on or before
the first day of September, one thousand nine hundred
thirty-seven, shall practice as a dental hygienist until he
has first passed an examination given by the West Vir-
ginia board of dental examiners and otherwise qualifies
under such rules and regulations as the board may
establish.

The fee for the examination shall be twenty dollars
and shall accompany the application. An applicant fail-
ing to pass the first examination shall be entitled to one
re-examination at next regular meeting of the board
without additional cost. The fee for every re-examina-
tion after that shall be ten dollars.

The board of dental examiners shall issue a license to
practice dental hygiene in this state to any person who
has passed such an examination and who has otherwise qualified to practice dental hygiene under the rules and regulations established by the board: *Provided, however,*

That no person shall be entitled to such dental hygiene license unless he be: (a) at least eighteen years of age, (b) of good moral character, (c) a graduate of a first class high school of this state or its equivalent and (d) be a graduate of, and possess an acceptable diploma in dental hygiene approved by the board of dental examiners.

Sec. 17-a. *Specialties; Qualifications; Application Fee; Limitation of Practice; Penalty for Violation.*—No see shall announce or otherwise hold himself out to the public as a specialist or as being specially qualified in any particular branch of dentistry or as giving special attention to any branch of dentistry or as limiting his practice to any branch of dentistry unless he has first complied with the requirements established by the board of dental examiners for such specialty and has been issued a certificate of qualification authorizing him so to do.
The board of dental examiners may establish higher standards and additional requirements for any licensee who desires to announce or otherwise hold himself out to the public as being specially qualified in a branch or specialty of dentistry recognized by the board. The board may give such examinations and secure such assistance as it may deem necessary in determining the qualifications of applicants.

Application to the board for a certificate of qualification in a specialty of dentistry shall be upon such form and contain such information as the board may require and shall be accompanied by a fee of fifty dollars. A licensee found by the board to be qualified under the standards and other requirements promulgated by the board in the specialty indicated in his application shall be issued a certificate of qualification authorizing the licensee to announce or otherwise hold himself out to the public as specially qualified in the indicated specialty under such terms and in a manner approved by the board.

Sec. 17-b. Annual Information and Renewal Fee; Notice; Reinstatement; Penalty Fee; Waiver of Payment
of Fee on Retirement or Disability; Change of Address.—

On or before the first day of February of each year, every dentist licensed to practice dentistry in this state, and every dental hygienist licensed to practice dental hygiene in this state, shall transmit to the secretary of the board upon a form prescribed by the board, his signature, post office address, office address, the serial number of his license certificate, whether he has been engaged during the preceding year in the active and continuous practice of dentistry or dental hygiene, as the case may be, whether within or without this state and such other information as may be required by the board together with an information and renewal fee herein provided for.

The annual information and renewal fee for a dentist shall be three dollars and for a dental hygienist shall be two dollars.

Upon receipt of the required information and the payment of the proper renewal fee, the licensee shall be issued a renewal certificate authorizing him to continue the practice of dentistry or the practice of dental hygiene in this state for a period of one year from the first day of February.
A license to practice dentistry or dental hygiene granted under the authority of this article shall be cancelled on the first day of May if the holder thereof fails to secure a current renewal certificate by that date. Any licensee whose license is thus cancelled by reason of the failure, neglect or refusal to secure the proper renewal certificate may be reinstated by the board at any time within six months from the date of the cancellation of said license upon the payment of the proper renewal fee and an additional fee of fifteen dollars. If the licensee shall not apply for renewal of his license as herein required within the said six months, that person shall, at the discretion of said board, be required to file an application for and take the examination provided in this article should he desire to practice dentistry or dental hygiene in this state.

Upon failure of any licensee to submit the required information and pay the annual renewal fee as herein required by the statutory date, the board shall attempt to notify such licensee in writing by mailing to his last registered address a notice of the requirements of this
section apprising him of the fact that his license to practice will be cancelled on the statutory date: Provided, however, That failure to mail or receive such notice shall not affect the cancellation of his license.

The board may waive the annual payment of the renewal fee herein required, and issue a renewal certificate to any West Virginia licensee who has held a West Virginia license for at least twenty-five years and is presently retired from active practice, or to any West Virginia licensee who has retired for reasons of physical disability so long as such retirement continues: Provided, That the licensee provides the board with the information required by this section.

Every licensed dentist within thirty days of changing his place of practice or establishing additional offices shall furnish the secretary of the board with his new professional address.

Every licensed dental hygienist within thirty days of changing his place of employment shall furnish the secretary of the board with his new professional address and the name of his employer.
Sec. 18. Practicing Dentistry or Dental Hygiene without Complying with Provisions of this Article; Penalty; Injunction.—Any person who shall practice or offer to practice dentistry or dental hygiene in this state without first having complied with the provisions of this article, or who shall violate any of its provisions for which no specific penalty has been provided, shall be guilty of a misdemeanor, and upon conviction thereof of a first offense against this article, shall be fined not less than three hundred dollars nor more than one thousand dollars, or confined in jail not less than three months nor more than six months, or both fined and imprisoned at the discretion of the court.

A person convicted of a second subsequent offense against this article shall be guilty of a misdemeanor and shall be fined not less than one thousand dollars nor more than twenty-five hundred dollars or confined in jail for not less than six months nor more than twelve months or both fined and imprisoned at the discretion of the court.

Each act of dentistry or dental hygiene shall be deemed a separate offense and shall constitute a practice of den-
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tistry or dental hygiene within the meaning of this sec-

tion and each day that a person may hold himself out as

practicing in his own name or any name shall be deemed

a separate offense.

Notwithstanding the existence of any other remedy,

the board may, in the manner provided by law, maintain

an action for an injunction against any person, partner-

ship or association to restrain or prevent the practice of

dentistry and/or dental hygiene when such person, part-
nership or association repeatedly refuses to obtain regis-

tration or license therefor and continues the practice of

dentistry and/or dental hygiene without first obtaining

registration or license therefor in the manner hereinbe-

fore provided.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

Takes effect 90 days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

Speaker House of Delegates

The within approved this the 18th day of February, 1955.

[Signature]
Governor.

Filed in the Office of the Secretary of State of West Virginia

D. P. O'Brien
Secretary of State