

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1955

ENROLLED

SENATE BILL NO. 154

(By Mr. Tassan)

PASSED February 15 1955

In Effect 90 days from Passage



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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 follows:

Section 3. *Who Deemed Practitioner of Dental Hygiene; 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 procedures.

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 consist 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 immedi-

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

6 that may be required by statute or by any legally adopted
7 rule or regulation.

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

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

23 The said board shall have the power to hire, fix the
24 compensation of, and discharge such employees as are
25 necessary for the performance of the powers and duties
26 vested in the said board by law and to expend such sums

27 as said board may deem necessary to maintain an office
28 and to carry out and enforce the provisions of this article.

Sec. 5. *License Required as Prerequisite to Practice*

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

10 The board of dental examiners under such regulations
11 as it may prescribe may issue a temporary permit to
12 practice dentistry or dental hygiene to graduates of
13 schools of dentistry or dental hygiene approved by the
14 board who are certified to the board of directors of dental
15 clinics established by law, by the chief executive of any
16 hospital or sanitarium licensed or operated by the state
17 or by the chief dental officer of the health department
18 of the state. Such permits shall expire thirty days after
19 the date of the next examination given by the board for

20 licenses in dentistry or dental hygiene and shall not be
21 subject to renewal. Such permits shall terminate when
22 the holder thereof ceases to be employed by the person
23 certifying him. A fee of five dollars shall be paid to the
24 board upon issuance of such permit by the person certify-
25 ing the applicant.

26 The board of dental examiners under such regulations
27 as it may prescribe may issue a dental intern or dental
28 residency permit to graduates of dental schools approved
29 by the board who are not licensed to practice dentistry
30 in this state and who have not failed an examination for
31 a license to practice dentistry in this state. Applicants
32 for such permits shall be certified to the board by the
33 director of a hospital operated or licensed by the state
34 which maintains a dental intern or residency program.
35 Such permits shall authorize the holder thereof to serve
36 as a dental intern or a dental resident for a period of
37 not more than one year in any hospital licensed or oper-
38 ated by the state which maintains an established dental
39 department under the supervision of a licensed dentist.
40 The holder of such a permit shall function under the

41 supervision of the dental staff of the hospital and shall
42 limit his practice to patients selected by the hospital.
43 The holder of such a permit shall not be entitled to re-
44 ceive any fee or other compensation other than such
45 salary as may be paid by such hospital. Permits may be
46 revoked by the board for cause and shall expire at the
47 end of one year or on the date the dental internship or
48 residency is discontinued, whichever first occurs. A fee
49 of five dollars shall be paid to the board upon the issu-
50 ance of such a permit by the hospital nominating him.

51 The board of dental examiners under such regulations
52 as it may prescribe may issue teaching permits to per-
53 sons who are graduates of a school of dentistry or dental
54 hygiene approved by the board where such persons are
55 not licensed to practice dentistry or dental hygiene in
56 this state. Such permits shall be issued only upon the
57 certification of the dean of a dental school located in this
58 state that the applicant is a bona fide member of the
59 staff of that school. Such permits shall be valid for one
60 year and may be reissued by the board in its discretion.
61 The holder of such a permit shall be entitled to perform

62 all operations which a person licensed to practice den-
63 tistry or dental hygiene in this state would be entitled
64 to perform, but only within the facilities of the dental
65 school and as an adjunct to his teaching functions in
66 such school. A fee of five dollars shall be paid to the
67 board on the issuance of a teaching permit or upon each
68 renewal thereof by the school nominating the applicant.

69 Nothing in this act shall be deemed to prohibit the
70 practice of dentistry or dental hygiene by persons li-
71 censed in another state who, at the request of an ap-
72 proved dental school or any regularly organized dental
73 society, may give a clinic at such school or at a scientific
74 meeting of such dental society for the purpose of advanc-
75 ing the professional knowledge of members of the dental
76 profession or members of the student body of a dental
77 school.

Sec. 6. *Qualifications of Applicant for License; Ex-*
2 *aminations; Examination Fee; Licensing.*—An applicant
3 for a dental license shall be of good moral character, at
4 least twenty-one years of age at the time of making
5 application, and be a graduate of, and possess an accept-

6 able dental diploma from the faculty of a dental school
7 approved by the board. The board may require the ap-
8 plication to be accompanied by sufficient evidence of
9 these qualifications.

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

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

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

24 An applicant obtaining a satisfactory grade on such
25 examination and otherwise fulfilling the requirements
26 of the board shall be granted a license by the board to

27 practice dentistry, which license shall bear a serial num-
28 ber, the full name of the licensee, the date of issuance
29 of the license, the seal of the board and the signatures
30 of a majority of the members of the board.

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

Sec. 7. *Refusal to Issue, Suspension or Revocation of*
2 *License; Grounds.*—The state board of dental examiners
3 may refuse to issue a license to practice dentistry or
4 dental hygiene in this state, or after issuance may sus-
5 pend or revoke the same, for any of the following causes:
6 (1) The presentation to the board of any diploma,
7 license or certificate illegally or fraudulently obtained,
8 or one obtained from an institution which is not reput-
9 able, or one obtained from an unrecognized or irregular
10 institution or state board.

11 (2) Be guilty of gross ignorance or gross inefficiency
12 in his profession.

13 (3) Conviction of a felony; and a certified copy of the
14 record of the court of conviction shall be sufficient proof
15 of such conviction.

16 (4) Announcing or otherwise holding himself out to
17 the public as a specialist or as being specially qualified
18 in any particular branch of dentistry or as giving special
19 attention to any branch of dentistry or as limiting his
20 practice to any branch of dentistry without first comply-
21 ing with the requirements established by the board of
22 dental examiners for such specialty and having been
23 issued a certificate of qualification in such specialty by
24 the board.

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

28 (a) Be guilty of any fraud or deception.

29 (b) The commission of a criminal operation or con-
30 viction of a crime involving moral turpitude.

31 (c) Chronic or persistent inebriety or addiction to
32 narcotics or drugs.

33 (d) Be guilty of the violation of any professional con-
34 fidence or be guilty of disclosing any professional secret.

35 (e) Be grossly immoral.

36 (f) Be guilty of employing what are known as "cap-
37 pers" or "steerers" to obtain business.

38 (g) The obtaining of any fee by fraud or misrepres-
39 sentation.

40 (h) Employ directly or indirectly, or direct or permit
41 any suspended or unlicensed person so employed, to per-
42 form operations of any kind or to treat lesions of the
43 human teeth or jaws or correct maliposed formations
44 thereof.

45 (i) Practice, or offer or undertake to practice, dentistry
46 under any firm name or trade name or under any name
47 other than his own true name: *Provided*, That any
48 licensee may practice under a firm name or partnership
49 name containing nothing but the surname of every mem-
50 ber of such firm or partnership.

51 (j) Professional connection or association with, or
52 lending his name to another, for the illegal practice of
53 dentistry, or professional connection or association with

54 any person, firm, or corporation, holding himself, them-
55 selves, or itself out in any manner contrary to this article.

56 (k) Make use of any advertising relating to the use
57 of any drug or medicine of unknown formula.

58 (l) Advertise to practice dentistry or perform any
59 operation thereunder without causing pain.

60 (m) Advertise professional superiority or the per-
61 formance of professional services in a superior manner.

62 (n) Advertise prices charged for professional service.

63 (o) Advertise by means of large display, flickering, or
64 glaring light signs, or contain as a part thereof the repre-
65 sentation of a tooth, teeth, or bridge work, or any portion
66 of the human head.

67 (p) Employ or make use of advertising solicitors or
68 free publicity press agents.

69 (q) Advertise to guarantee any dental service.

70 (r) Advertise in any manner calculated to, or tending
71 to, deceive or mislead the public: *Provided*, That such
72 licensee may announce, by way of a professional card
73 containing not more than his name, title, degree, office
74 location, office hours, business telephone number, and

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

95 The term advertising, as used in this section, shall be

96 construed to include the use of radio or any loud speaking
97 device or any other similar method or agency.

98 This entire section is passed in the interest of the pub-
99 lic health, safety and welfare and its provisions shall be
100 liberally construed to carry out its object and purpose.
101 Each and every provision of this section is hereby de-
102 clared to be independent and severable, and should any
103 portion or provision or provisions of this section be held
104 unconstitutional or for any other reason invalid, the re-
105 maining portion or portions, or provision or provisions
106 shall not be thereby affected.

Sec. 11. *Right of Dentist to Prescribe Drugs and Per-
2 form Surgical Operations; Sign Death Certificates; Pre-
3 scriptions.*—A licensed dentist shall have the same rights
4 to prescribe drugs or medicines, perform such surgical
5 operations, administer general or local anaesthetics and
6 use such appliances as may be necessary to the proper
7 treatment of the special class of diseases mentioned in
8 this article as are enjoyed by registered physicians in
9 this state. A licensed dentist shall have the same right to
10 execute and sign a death certificate when such is required

11 in the course of his practice as is given to licensed physi-
12 cians by the laws of this state. Druggists of this state
13 shall fill prescriptions of licensed dentists in this state
14 for any drugs necessary for the practice of dentistry.

Sec. 13. *Dental Hygienists; Permitted Operations;*

2 *Revocation of License.*—A licensed dentist, or the direc-
3 tor of any industrial clinic, school clinic or state indus-
4 trial clinic, having a dental program under the super-
5 vision of a licensed dentist, may employ dental hygienists
6 who shall practice under the supervision of a licensed
7 dentist.

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

15 The state board of dental examiners may suspend or
16 revoke the license of any dental hygienist who shall per-
17 form any operation other than those permitted under the

18 provisions of this section, who shall violate any provision
19 of this article relating to dental hygienists or who shall
20 be found guilty of any of the acts enumerated in section
21 seven of this article.

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

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

16 The board of dental examiners shall issue a license to
17 practice dental hygiene in this state to any person who

18 has passed such an examination and who has otherwise
19 qualified to practice dental hygiene under the rules and
20 regulations established by the board: *Provided, however,*
21 That no person shall be entitled to such dental hygiene
22 license unless he be: (a) at least eighteen years of age,
23 (b) of good moral character, (c) a graduate of a first
24 class high school of this state or its equivalent and (d)
25 be a graduate of, and possess an acceptable diploma in
26 dental hygiene from a school having a course in dental
27 hygiene approved by the board of dental examiners.

Sec. 17-a. *Specialties; Qualifications; Application Fee;*
2 *Limitation of Practice; Penalty for Violation.*—No licen-
3 see shall announce or otherwise hold himself out to the
4 public as a specialist or as being specially qualified in
5 any particular branch of dentistry or as giving special
6 attention to any branch of dentistry or as limiting his
7 practice to any branch of dentistry unless he has first
8 complied with the requirements established by the board
9 of dental examiners for such specialty and has been is-
10 sued a certificate of qualification authorizing him so
11 to do.

12 The board of dental examiners may establish higher
13 standards and additional requirements for any licensee
14 who desires to announce or otherwise hold himself out
15 to the public as being specially qualified in a branch or
16 specialty of dentistry recognized by the board. The
17 board may give such examinations and secure such as-
18 sistance as it may deem necessary in determining the
19 qualifications of applicants.

20 Application to the board for a certificate of qualifica-
21 tion in a specialty of dentistry shall be upon such form
22 and contain such information as the board may require
23 and shall be accompanied by a fee of fifty dollars. A
24 licensee found by the board to be qualified under the
25 standards and other requirements promulgated by the
26 board in the specialty indicated in his application shall
27 be issued a certificate of qualification authorizing the
28 licensee to announce or otherwise hold himself out to the
29 public as specially qualified in the indicated specialty
30 under such terms and in a manner approved by the board.

Sec. 17-b. *Annual Information and Renewal Fee;*

2 *Notice; Reinstatement; Penalty Fee; Waiver of Payment*

3 of *Fee on Retirement or Disability; Change of Address.*—

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

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

19 Upon receipt of the required information and the pay-
20 ment of the proper renewal fee, the licensee shall be
21 issued a renewal certificate authorizing him to continue
22 the practice of dentistry or the practice of dental hygiene
23 in this state for a period of one year from the first day of
24 February.

25 A license to practice dentistry or dental hygiene
26 granted under the authority of this article shall be can-
27 celled on the first day of May if the holder thereof fails
28 to secure a current renewal certificate by that date. Any
29 licensee whose license is thus cancelled by reason of the
30 failure, neglect or refusal to secure the proper renewal
31 certificate may be reinstated by the board at any time
32 within six months from the date of the cancellation of
33 said license upon the payment of the proper renewal
34 fee and an additional fee of fifteen dollars. If the licensee
35 shall not apply for renewal of his license as herein re-
36 quired within the said six months, that person shall, at
37 the discretion of said board, be required to file an ap-
38 plication for and take the examination provided in this
39 article should he desire to practice dentistry or dental
40 hygiene in this state.

41 Upon failure of any licensee to submit the required
42 information and pay the annual renewal fee as herein
43 required by the statutory date, the board shall attempt
44 to notify such licensee in writing by mailing to his last
45 registered address a notice of the requirements of this

46 section apprising him of the fact that his license to
47 practice will be cancelled on the statutory date: *Pro-*
48 *vided, however,* That failure to mail or receive such
49 notice shall not affect the cancellation of his license.

50 The board may waive the annual payment of the re-
51 newal fee herein required, and issue a renewal certificate
52 to any West Virginia licensee who has held a West Vir-
53 ginia license for at least twenty-five years and is pres-
54 ently retired from active practice, or to any West Vir-
55 ginia licensee who has retired for reasons of physical
56 disability so long as such retirement continues: *Provided,*
57 That the licensee provides the board with the informa-
58 tion required by this section.

59 Every licensed dentist within thirty days of changing
60 his place of practice or establishing additional offices
61 shall furnish the secretary of the board with his new pro-
62 fessional address.

63 Every licensed dental hygienist within thirty days of
64 changing his place of employment shall furnish the sec-
65 retary of the board with his new professional address and
66 the name of his employer.

Sec. 18. *Practicing Dentistry or Dental Hygiene with-*
2 *out Complying with Provisions of this Article; Penalty;*
3 *Injunction.*—Any person who shall practice or offer to
4 practice dentistry or dental hygiene in this state with-
5 out first having complied with the provisions of this
6 article, or who shall violate any of its provisions for
7 which no specific penalty has been provided, shall be
8 guilty of a misdemeanor, and upon conviction thereof
9 of a first offense against this article, shall be fined not less
10 than three hundred dollars nor more than one thousand
11 dollars, or confined in jail not less than three months nor
12 more than six months, or both fined and imprisoned at
13 the discretion of the court.

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

20 Each act of dentistry or dental hygiene shall be deemed
21 a separate offense and shall constitute a practice of den-

22 tistry or dental hygiene within the meaning of this sec-
23 tion and each day that a person may hold himself out as
24 practicing in his own name or any name shall be deemed
25 a separate offense.

26 Notwithstanding the existence of any other remedy,
27 the board may, in the manner provided by law, maintain
28 an action for an injunction against any person, partner-
29 ship or association to restrain or prevent the practice of
30 dentistry and/or dental hygiene when such person, part-
31 nership or association repeatedly refuses to obtain regis-
32 tration or license therefor and continues the practice of
33 dentistry and/or dental hygiene without first obtaining
34 registration or license therefor in the manner hereinbe-
35 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

[Signature]
Speaker House of Delegates

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

[Signature]
Governor.



Filed in the Office of the Secretary of State
of West Virginia **FEB 19 1955**
D. PITT O'BRIEN
SECRETARY OF STATE