WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1961

ENROLLED

HOUSE BILL No... 60.....

(By Mr. Briscoe and Mr. Hoggins)

PASSED March 6, 1961

In Effect from Passage

Filed in Office of the Secretary of State of West Virginia
MAR 17 1961
JOE F. BURDETT
SECRETARY OF STATE
AN ACT to amend and reenact sections two, four, four-a, and seven, article four, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article four by adding thereto a new section, to be designated section two-a, all relating to dentists, dental hygienists, and dental laboratories.

Be it enacted by the Legislature of West Virginia:

That sections two, four, four-a, and seven, 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 four be further amended by adding thereto a new section, to be designated section two-a, all to read as follows:

Section 2. Who Deemed Practitioner of Dentistry; Limitations of Article.—Any person shall be regarded as
practicing dentistry within the meaning of this article,
who shall diagnose or profess to diagnose or treat or pro-
fess to treat, any of the diseases or malformations or
lesions of the oral cavity, teeth, gums, or maxillary bones,
or shall prepare or fill cavities in human teeth, correct
malposition of teeth or jaws or supply artificial teeth
as substitutes for natural teeth, or administer anaes-
thesics, general or local, in connection with any of said
work, or shall make, produce, reproduce, construct, re-
pair, alter, or restore any prosthetic denture, crown,
bridge, or other prosthetic appliance to be used in, upon,
in connection with, or as a substitute for, any human
tooth, or in, upon, or in connection with the human jaw
or associated structure or tissue of the human mouth,
or to be used in the treatment of any condition thereof,
or perform any other work included in the curricula of
recognized dental colleges. To open an office for the prac-
tice of dentistry, or to announce to the public in any way
a readiness to do any act defined herein as the practice of
dentistry, shall be construed as engaging in the practice
of dentistry, within the meaning of this article: Provided,
however, That this section:
(1) Shall not apply to a duly licensed physician or surgeon in the practice of his profession when rendering dental relief in emergency cases, unless he undertakes to reproduce or reproduces lost parts of the human teeth, or to restore or replace lost or missing teeth in the human mouth.

(2) Shall not apply to a dental laboratory in the performance of dental technological work as that term is defined in section two-a of this article so long as the dental laboratory, in the performance of such work, conforms in all respects to the requirements of section two-a of this article, and further shall not apply to persons performing dental technological work, as so defined, under the direct and personal supervision of a licensed dentist or under the direct and personal supervision of a person authorized under the authority of this article to perform any of the acts in this article defined to constitute the practice of dentistry so long as such work is performed in connection with, and as a part of, the dental practice of such licensed dentist or other authorized person and for his dental patients.
(3) Shall not apply to students enrolled in and regularly attending any dental college recognized by the state board of dental examiners, provided their acts are done in said dental college and under the direct and personal supervision of their instructor.

(4) Shall not apply to licensed or registered dentists of another state temporarily operating a clinic under the auspices of a duly organized and reputable dental college or reputable dental society, or to one lecturing before a reputable society composed exclusively of dentists.

(5) Shall not apply to licensed dental hygienists in the performance of their duties as otherwise provided by law.

(6) Shall not apply to the practice of dentistry by dentists whose practice is confined exclusively to the service of the United States army, the United States navy, the United States public health service, or the United States veteran's bureau, or any other authorized United States government agency or bureau.

Sec. 2-a, Dental Technological Work.—A. Words and
Phrases Defined.—The following words and phrases when used in this section shall, for the purpose of this section have the meanings respectively ascribed to them in this subsection:

"Dental laboratory" shall mean a person, association of persons, partnership, or corporation performing dental technological work as herein defined or any phase thereof: Provided, That there is excluded from such definition licensed dentists and other dental practitioners performing dental technological work, or any phase thereof, and persons performing such work under the direct and personal supervision of a licensed dentist or other dental practitioner, in cases where such dental technological work is performed in connection with, and as a part of, the dental practice of such licensed dentist or other dental practitioner and for his own dental patients; "Dental prosthesis" shall mean any prosthetic denture, crown, bridge, or other prosthetic appliance to be used in, upon, in connection with, or as a substitute for, any human tooth, or in, upon, or in connection with, the
human jaw or associated structure or tissue of the human
mouth, or in the treatment of any condition thereof;

"Dental technological work" or "dental technological
service" shall mean the making, production, reproduction,
construction, repair, alteration, or restoration of any den-
tal prosthesis as herein defined;

"Other dental practitioner" shall mean and include
those persons excluded from the definition of the practice
of dentistry under the provisions of subsections three,
four, and six of section two of this article and also those
persons who hold temporary permits to practice den-
tistry or teaching permits which have been issued to them
under the provisions of section five of this article; and

"Work authorization" shall mean a written order for
dental technological work, as herein defined, which has
been issued by a licensed dentist of this state or other
dental practitioner and contains the items of informa-
tion specified in, and otherwise conforms to the require-
ments of, subsection "F" of this section.

B. Duty to Issue Work Authorization.—It shall be the
duty of every licensed dentist of this state and every
other dental practitioner of this state, in ordering the performance by any dental laboratory of any dental technological work, to issue therefor a work authorization in accordance with the requirements of this section.

C. Work Authorization Required; Compliance With Section.—It shall be unlawful for any person, association of persons, partnership, or corporation to perform dental technological work, or any phase thereof, unless such work be performed in pursuance of, and in conformity with, a work authorization as herein defined specifically ordering the same and otherwise be performed in accordance with the requirements of this section, and unless, at the time of such performance, such person, association of persons, partnership, or corporation, have such work authorization in its place of business where such work is performed: Provided, That the requirements of this subsection shall not apply to licensed dentists or other dental practitioners, or to their employees working under their direct and personal supervision, in cases where such licensed dentists or other dental practitioners are performing dental technological work in connection
with, and as a part of, their own dental practice and for
their own dental patients.

D. Advertising of Dental Technological Work Prohibited.
—It shall be unlawful for any person, association of per-
sons, partnership, or corporation, directly or indirectly,
by means of newspapers, magazines, publications, direc-
tories, pamphlets, radio or television broadcasts or tele-
casts, loud speaking devices, displays, outside or inside
signs, window signs or markings, letters or other ma-
terials sent by United States mail, or other commercial
method, whether or not herein specifically enumerated,
(1) to advertise or announce that he is engaged in the
business of the performance of dental technological work,
or any phase thereof; (2) to advertise or announce his
ability or willingness to perform for members of the
public dental technological work, or any phase thereof;
(3) to quote any price for the performance of dental
technological work, or any phase thereof; or (4) to ad-
vertise or announce any services rendered, or techniques
or materials employed, by him in the performance of
dental technological work, or any phase thereof: Pro-
vided, That this subsection shall not prevent dental laborato-
oratories from advertising in dental journals or in other professional dental publications or by means of communi-
cations directed and sent solely to dentists and other dental practitioners, or from announcing their business in business and telephone directories so long as such business and telephone directory announcements are limited to name and address and telephone number and do not occupy more than the number of lines necessary to disclose such information, or from displaying the trade name and address of such dental laboratory on the door of its place of business or on name plates or door plates exhibited on the interior or exterior of such place of business, but the lettering on such door, name plates, or door plates shall not exceed seven inches in height.

E. Sale or Furnishing of Dental Prosthesis by Person Other Than Licensed Dentist or Other Dental Practitioner Prohibited.—It shall be unlawful for any person, association of persons, partnership, or corporation, other than a licensed dentist or other dental practitioner, to sell, offer for sale, or furnish any dental prosthesis or
other dental technological service to any person who is not
a licensed dentist or other dental practitioner.

F. Contents of Work Authorization.—Each work au-
threshold authorization issued under the provisions of this section
shall contain the following information: (1) The name
and address of the dental laboratory to which it is di-
rected; (2) the case identification; (3) a specification of
the materials to be used; (4) a description of the work
to be done, and, if necessary, diagrams thereof; (5) the
date of its issuance; and (6) the signature and address
of the licensed dentist or other dental practitioner by
whom the work authorization is issued. A separate work
authorization shall be issued for each patient of the is-
suing licensed dentist or other dental practitioner for
whom dental technological work is to be performed.

G. Retention of Work Authorization.—Every work au-
thorization issued under this section shall be made in
duplicate. The original thereof shall be delivered to
the dental laboratory to which it is directed and shall be
retained by it in its office or place of business for the
period of two years from its date. The copy thereof shall
be retained in the office of the licensed dentist or other
dental practitioner by whom it was issued for the period
of two years from its date.

H. Inspection of Work Authorization.—During the two-
year retention period provided in subsection “G” of this
section, the dental laboratory by which the original of
any work authorization is retained and the licensed den-
tist or other dental practitioner by whom the copy thereof
is retained, shall at any time during customary office
hours, permit any member, employee, or agent of the
West Virginia board of dental examiners to have access
to, and to make inspection of, any work authorization so
retained, and shall provide to such member, employee, or
agent of the West Virginia board of dental examiners any
information relating to such work authorization and the
work performed thereunder which shall be requested
by him.

I. Inspection of Dental Technological Work.—Every
dental laboratory and every person employed by any
dental laboratory shall, upon request from any member,
employee, or agent of the West Virginia board of dental
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148 examiners, display to such member, employee, or agent, and permit the inspection by him of, any items of den-
149 tal technological work then in the course of performance by such dental laboratory or person employed by it and
150 any dental prosthesis then in the place of business of, or upon the premises occupied by, such dental laboratory
151 for making, production, reproduction, construction, re-
152 pair, alteration, or restoration, regardless of whether
153 such making, production, reproduction, construction, re-
154 pair, alteration, or restoration has been commenced, is
155 in the course of performance, or has been completed, and
156 shall, upon such request, provide to such member, em-
157 ployee, or agent of the West Virginia board of dental
158 examiners all pertinent information relating to any such
dental technological work and any such dental prosthesis,
159 and shall, upon such request, permit any such member,
160 employee, or agent of the West Virginia board of dental
161 examiners to have access to, and to make inspection of,
162 the work authorization covering any such dental pro-
163 thesis.

168 J. Offenses; Penalties.—Each act done by any person
in violation of any provision of this section shall be
deemed, and shall constitute, a separate offense here-
der, and each day that any person shall continue in
violation of any provision hereof shall likewise be deemed,
and shall constitute, a separate offense hereunder. Any
person who shall, within this state, violate any provision
of this section shall be guilty of a misdemeanor, and
upon conviction thereof, shall be punished as provided in
section eighteen of this article.

K. Injunction.—Notwithstanding the existence of any
other remedy, the West Virginia board of dental examin-
ers may, in its name as such and without giving bond,
institute and prosecute a suit for an injunction against any
person, association of persons, partnership, or corpora-
tion who has violated any provision of this section to
restrain and prohibit the further violation by such per-
son, association of persons, partnership, or corporation of
the provisions of this section.

Sec. 4. Board of Dental Examiners.—There shall be a
state board of dental examiners, known as the “West Vir-
ginia 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 immediately pre-
ceding his appointment: Provided, however, That no per-
son shall be eligible for appointment to said board who
is in any way connected with or interested in any dental
college or dental department of any institution of learning
or in a dental supply business.

The members of the board in office on the date this sec-
tion takes effect shall, unless sooner removed, continue
to serve until their respective terms expire and until their
successors have been appointed and have qualified. On
or before the first day of July, after this section takes
effect, and on or before the first day of July in each year
thereafter, the governor shall appoint one member to
serve a term of five years commencing on the said first
day of July: Provided, That during the five-year period
immediately following the effective date of this section, the governor shall make appointments to the board at such times as shall be necessary to replace members whose terms expire during such period: And provided further, That during such five-year period, the governor shall appoint members to the board for terms of such respective lengths as shall thereafter permit the term of one member to expire at midnight on the thirtieth day of June of each year. Any member shall be eligible for reappointment for one additional consecutive term.

Each appointment under this section, whether for a full term or to fill a vacancy, shall be made by the governor from among three nominees therefor selected by the West Virginia dental society. In the case of an appointment for a full term such nominations shall be submitted to the governor not later than eight months prior to the date on which the appointment shall become effective. In the case of an appointment to fill a vacancy, such nominations shall be submitted to the governor within thirty days after a request for such nominations shall have been made.
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by the governor to the president of such society. In the
event of the failure of the society to submit to the gov-
ernor nominations for an appointment in accordance with
the requirements of this section, the governor may make
the appointment without such nominations.

Sec. 4-a. Powers and Duties.—The West Virginia board
of dental examiners shall examine all qualified applicants
for license to practice dentistry or dental hygiene, and it
shall license all such applicants who are qualified 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 ex-
amination 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, ar-
ticle 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 board, acting by and through its members, employees, and agents, is further authorized and empowered, at any time during customary office hours, to enter into the office or place of business of any dental laboratory, licensed dentist or other dental practitioner, of this state, and to obtain access to, make inspection of, and request information regarding, any work authorization which such dental laboratory, licensed dentist, or other dental practitioner is required under the provisions of section two-a of this article, to retain therein, and is further authorized and empowered to inspect any items of dental technological work then in the course of performance by such dental laboratory or person employed by it, and to inspect any dental prosthesis then in the place of busi-
ness of, or upon the premises occupied by, such dental
laboratory for making, production, reproduction, con-
struction, repair, alteration, or restoration, and to request
any information which it, its members, employees, or
agents deem to be pertinent relating to any such dental
technological work and any such dental prosthesis. For
the purpose of this paragraph the definition of terms con-
tained in subsection A of section two-a of this article is
made expressly applicable.

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. 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,
(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:
28  (a) Be guilty of any fraud or deception.
29  (b) The commission of a criminal operation or conviction of a crime involving moral turpitude.
30  (c) Chronic or persistent inebriety or addiction to narcotics or drugs.
31  (d) Be guilty of the violation of any professional confidence or be guilty of disclosing any professional secret.
32  (e) Be grossly immoral.
33  (f) Be guilty of employing what are known as "cappers" or "steerers" to obtain business.
34  (g) The obtaining of any fee by fraud or misrepresentation.
35  (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 malimposed formations thereof.
36  (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 con-
(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, themselves, 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 performance 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 representation 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.
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 five inches by six inches in size, and such information may be inserted in public print when not more than two newspaper columns in width and two 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 professional 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect upon passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 17th day of March 1961.

Governor

Filed in Office of the Secretary of State of West Virginia MAR 17 1961

JOE F. BURDETT
SECRETARY OF STATE