AN ACT to amend and reenact section three, article one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections four, four-a, six, seven, sixteen, seventeen-a and seventeen-b, article four of said chapter; and to further amend said article four by adding thereto a new section, designated section nineteen, all relating to the regulation of the practice of dentistry and dental hygiene.

Be it enacted by the Legislature of West Virginia:

That section three, article one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections four, four-a,
six, seven, sixteen, seventeen-a and seventeen-b, article four of
said chapter be amended and reenacted; and that said article
four be further amended by adding thereto a new section,
designated section nineteen, all to read as follows:

ARTICLE I. GENERAL PROVISIONS APPLICABLE TO ALL STATE
BOARDS OF EXAMINATION OR REGISTRATION
REFERRED TO IN CHAPTER.

§30-1-3. Officers; bond of secretary.
1 Every such board shall elect annually from its mem-
2 bers a president and a secretary who shall hold their
3 offices for one year and until their successors are elected:
4 Provided, That the state board of law examiners, the
5 state board of examiners for nurses and the state board
6 of dental examiners may each elect a secretary from
7 outside its membership. The secretary shall execute a
8 surety bond conditioned as required by law, which bond
9 shall be approved by the attorney general as to form and
10 by the auditor as to sufficiency, and, when so approved,
11 shall be filed and recorded in the office of the secretary
12 of state. The premium on said bond shall be regarded
13 a proper and necessary expense of the board.
ARTICLE 4. DENTISTS, DENTAL HYGIENISTS AND DENTAL CORPORATIONS.

§30-4-4. Board of dental examiners.

1 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 immediately preceding his appointment: Provided, however, That no person 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 section 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 by the governor to the president of such society. In the event of the failure of the society to submit to the governor nominations for an appointment in accordance with the requirements of this section, the governor may make the appointment without such nominations.

Each member of the board shall receive forty dollars for each day actually spent in attending meetings of the board, or of its committees, and shall also be reimbursed for all reasonable and necessary expenses actually incurred in the discharge of his duties under the provisions of this article.

§30-4-4a. Powers and duties of board.

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 board shall examine all applications filed in accordance with the provisions of section four-b of this article and shall issue certificates of authorization to all applicants legally entitled to receive the same, such certificates to be signed by the chairman and secretary of the board.

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 board shall also have authority to license dental corporations authorized under the provisions of and subject to the limitations of this article, to practice dentistry through duly licensed dentists. 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 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, dental corporation 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, dental corporation 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 business of, or upon the premises occupied by, such dental laboratory for
making, production, reproduction, construction, 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 prothesis. For the purpose of this
paragraph the definition of terms contained in subsection
a of section two-a of this article is made expressly ap-
plicable.

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.

All fees and other moneys collected by the board pur-
suant to the provisions of this article shall be kept in a
separate fund and expended solely for the purpose of
carrying out the provisions of this article. The compen-
sation provided for in this article and all expenses in-
curred under this article shall be paid from this special
fund. No compensation or expense incurred under this
article shall be a charge against or payable out of the general revenue fund of this state.

§30-4-6. Qualifications of applicant for license; examinations; examination fee; licensing.

An applicant for a dental license shall be of good moral character, a citizen of the United States or an individual who has declared his intention to become and who shows progress toward becoming a citizen of the United States, at least twenty-one years of age at the time of making application, and be a graduate of, and possess an acceptable 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 number, 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.
§30-4-7. Refusal to issue, suspension or revocation of license; grounds.

1 The state board of dental examiners may refuse to
2 issue a license to practice dentistry or dental hygiene
3 in this state, or after issuance may suspend or revoke
4 the same, for any of the following causes:
5 (1) The presentation to the board of any diploma,
6 license or certificate illegally or fraudulently obtained,
7 or one obtained from an institution which is not reputable,
8 or one obtained from an unrecognized or irregular in-
9 stitution or state board.
10 (2) Be guilty of gross ignorance or gross inefficiency
11 in his profession.
12 (3) Conviction of a felony; and a certified copy of the
13 record of the court of conviction shall be sufficient proof
14 of such conviction.
15 (4) Announcing or otherwise holding himself out to
16 the public as a specialist or as being specially qualified in
17 any particular branch of dentistry or as giving special
18 attention to any branch of dentistry or as limiting his
19 practice to any branch of dentistry without first comply-
ing with the requirements established by the board of
dental examiners for such specialty and having been is-
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 convic-
tion of a crime involving moral turpitude.

(c) Chronic or persistent inebriety or addiction to nar-
cotics or drugs.

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

(e) Be grossly immoral.

(f) Be guilty of employing what are known as “capp-
ers” or “steerers” to obtain business.

(g) The obtaining of any fee by fraud or misrepresen-
tation.

(h) Employ directly or indirectly, or direct or permit
any suspended or unlicensed person so employed, to per-
form operations of any kind or to treat lesions of the human teeth or jaws or correct malimposed 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, 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 bridgework, 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 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 informa-
tion thereon is limited to matter pertaining to the time
and place of appointment and that permitted on the pro-
fessional card, and he may display his name, title, and
degree upon the windows or doors of his office and by a
doortage or nameplate or office directory when the in-
formation 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,
doorplates, and nameplates or office directory in letter-
ing greater in height than seven inches.

(s) To solicit subscriptions from individuals within or
without the state for, or advertise or offer to individuals
within or without the state, a course of instruction or
course materials in any phase, part or branch of dentistry
or dental hygiene in any journal, newspaper, magazine
or dental publication, or by means of radio, television,
or United States mail, or in or by any other means of
contacting individuals: Provided, That the foregoing
provisions of this subparagraph (s) shall not be con-
strued so as to prohibit (i) an individual dentist or dental
hygienist from presenting articles pertaining to pro-
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104 procedures or technique to state or national journals or
105 accepted dental publications, or (ii) educational insti-
106 tutions approved by the board from offering courses
107 or instruction or course materials to individual den-
108 tists and dental hygienists from within or without the
109 state.

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

113 This entire section is passed in the interest of the public
114 health, safety and welfare, and its provisions shall be liber-
115 ally construed to carry out its object and purpose.

§30-4-16. Dental hygienists from other states who desire to
practice in this state; qualifications.

1 The board of dental examiners may, at its discretion,
2 without the examination herein provided, issue a license
3 to practice dental hygiene to any applicant therefor, who
4 shall furnish proof satisfactory to the board that he has
5 been duly licensed to practice as a dental hygienist in an-
6 other state after full compliance with the requirements
7 of its dental laws: Provided, however; That his profession-
al and preliminary education shall not be less than that required in this state, and that he shall have been in active practice at least two years previous to his application for a license. The fee for issuing a license to a legal practitioner of dental hygiene from another state shall be twenty-five dollars, which shall be paid before the license is issued.

§30-4-17a. Specialties; qualifications; application for certificate; fee; limitation of practice.

No licensee 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 qualifica-
tions of applicants.

The state board of dental examiners may appoint not
more than three specialists to examine the credentials of
applicants, and each specialist so appointed shall receive
ten dollars for each day actually spent in examining the
credentials of applicants and shall be entitled to be reim-
bursed for all reasonable and necessary expenses actually
incurred in discharging such duties. The state board of
dental examiners may appoint not more than three
specialists to administer and grade the specialty examina-
tion given to applicants, and each specialist so appointed
shall receive forty dollars for each day actually spent in
administering and grading such examinations.

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 seventy-five 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.

§30-4-17b. Annual information and renewal fee; notice; rein-
statement; penalty fee; waiver of payment of fee
on retirement or disability; change of address.

1 On or before the first day of February of each year,
2 every dentist licensed to practice dentistry in this state,
3 and every dental hygienist licensed to practice dental
4 hygiene in this state, shall transmit to the secretary of
5 the board upon a form prescribed by the board, his sig-
6 nature, post-office address, office address, the serial num-
7 ber of his license certificate, whether he had been engaged
8 during the preceding year in the active and continuous
9 practice of dentistry or dental hygiene, as the case may
10 be, whether within or without this state, and such other
11 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 twenty dollars and for a dental hygienist shall be ten 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 appraising 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.

§30-4-19. Severability.

If any provision of this article or the application thereof to any person or circumstance shall be held invalid, the remainder of the article and the application of such provision to other persons or circumstances shall not be affected thereby.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

William Tongas
Chairman Senate Committee

Clayton C. Dawson
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1969.

Howard Henry
Clerk of the Senate

O. O. Blankenship
Clerk of the House of Delegates

Lloyd F. Jackson
President of the Senate

W. T. Brooks
Speaker House of Delegates

The within approved this the 17th
day of March, 1969.

Arch A. Shaw, Jr.
Governor
PRESENTED TO THE
GOVERNOR

Date 3/12/69
Time 2:45 p.m.