WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1972

ENROLLED

SENATE BILL NO. 300

(By Mr. [Signature])

PASSED...March 10, 1972

In Effect...90 Days from Passage

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-29-72
AN ACT to amend and reenact sections two, three, five, six, ten, thirteen, fourteen, fifteen, sixteen and seventeen-a, article four, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to giving the dental board authority to prescribe rules or regulations to achieve more effective utilization of the services of dental hygienists and dental assistants, making all fees nonrefundable, and granting the board authority to select testing bodies.

Be it enacted by the Legislature of West Virginia:

That sections two, three, five, six, ten, thirteen, fourteen, fifteen, sixteen and seventeen-a, article four, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

CHAPTER 30. PROFESSION AND OCCUPATIONS.

ARTICLE 4. DENTISTS, DENTAL HYGIENISTS AND DENTAL CORPORATIONS.

§30-4-2. Who deemed practitioner of dentistry; limitations of article.

1 Any person shall be regarded as practicing dentistry within the meaning of this article, who shall diagnose or profess to diagnose or treat or profess 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 anesthetics, general or local, in connection with any of said work, or shall make, produce, reproduce, construct, repair, 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 con-
Enr. S. B. No. 300]

nection 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 in-
cluded in the curricular of recognized dental colleges.
To open an office for the practice of dentistry, or to an-
ounce 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 per-
formance 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, con-
forms in all respects to the requirements of section two-a
of this article, and further shall not apply to persons per-
forming 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 regu-
larly 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 or dental assistants 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.

§30-4-3. 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: Provided, that the board of dental examiners may establish additional criteria by rules and regulations promulgated by it.

§30-4-5. License required a prerequisite to practice dentistry; exceptions; temporary and special permits.

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 certificate 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 certify-
ing 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 main-
tains 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 den-
tal 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 hy-
giene 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 cer-
tification 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 article 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 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.

An applicant for a permit under this section shall transmit with his application a fee of thirty-five dollars which sum the board is authorized to expend in an investigation of the applicant's qualifications. No portion of this fee is refundable.

§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. No portion of this fee is refundable.

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. The testing body for such examinations shall be decided 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.

§30-4-10. Fees for licenses and certificates issued under §30-4-8 and §30-4-9.

1 The fee for issuing the license to a legal practitioner from another state, as provided in section eight of this article, shall be fifty dollars, and the fee for issuing a certificate to a legal practitioner in this state, as provided in section nine of this article, shall be five dollars, and in each case the fee shall be paid before the license or certificate, respectively, is issued. No portion of these fees are refundable.

§30-4-13. Dental hygienists; permitted operations; revocation of license.

1 A licensed dentist, or the director of any industrial
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
procedure: Provided, That the board of dental examiners
may establish additional criteria by rules and regulations
promulgated by it.

The state board of dental examiners may suspend or
revoke the license of any dental hygienist who shall per­
form 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.

§30-4-14. Prerequisites to practice dental hygiene; examina-
tion 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 or examinations selected by the West Vir-
ginia board of dental examiners and otherwise qualifies
under such rules and regulations as the board may estab-
lish. Such examination or examinations shall be both
practical and theoretical. The fee for the examination
shall be twenty dollars and shall accompany the applica-
cation. An applicant failing to pass the first examination
shall be entitled to one reexamination at next regular
meeting of the board without additional cost. The fee
for every reexamination after that shall be ten dollars.
No portion of these fees are refundable.

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
enacted, 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 from a school having a course in dental hygiene approved by the board of dental examiners.

§30-4-15. Permitted intraoral tasks for dental hygienists and assistants.

Licensed dentists may assign to their employed dental hygienists or assistants intraoral tasks that do not require the professional competence or skill of the employer-dentist, subject to the following conditions:

(1) The performance of intraoral tasks by dental hygienists or assistants shall be under the direct supervision of the employer-dentist.

(2) None of the following procedures may be assigned to a dental hygienist or assistant or to any other person not licensed to practice dentistry:

(a) Diagnosis, treatment planning and prescription (including prescriptions for drugs and medicaments or authorizations for restorative, prosthodontic or orthodontic appliances).

(b) Surgical procedures on hard and soft tissues within the oral cavity or any other intraoral procedure that contributes to or results in an irremediable alteration of the oral anatomy.

The board of dental examiners shall promulgate rules or regulations specifying the tasks that licensed dentists may, under the authority of this article assign to (1) dental hygienists and (2) dental assistants: Provided, that licensed dental hygienists may perform those tasks provided for in this article.

The practice of dental hygiene shall consist of those prophylactic, preventive and other procedures that licensed dentists are authorized by this article and dental examin-
The dental examining board shall issue rules or regulations defining the procedures that may be performed by licensed dental hygienists engaged in school health activities or employed by public agencies.

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

The board of dental examiners may, at its discretion, without the examination herein provided, issue a license to practice dental hygiene to any applicant therefor, who shall furnish proof satisfactory to the board that he has been duly licensed to practice as a dental hygienist in another state after full compliance with the requirements of its dental laws: Provided, however, That his professional 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. No portion of this fee is refundable.

§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 qualifications 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 reimbursed 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 examination 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. No portion of this fee is refundable. 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 27th day of March 1972.

Governor
PRESENTED TO THE
GOVERNOR

Date 3/17/12
Time 12:30 p.m.