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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972

ENROLLED

SENATE BILL NO. 300

(By Mr. Pattenberger And Mr. Ward)

PASSED March 10th 1972

In Effect 90 Days From Passage

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

MAR 29 11 37 PM '72

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE

THIS DATE 3-29-72

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ENROLLED
Senate Bill No. 300

(By MR. POFFENBARGER and MR. WARD)

[Passed March 10, 1972; in effect ninety days from passage.]

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
2 within the meaning of this article, who shall diagnose or
3 profess to diagnose or treat or profess to treat, any of the
4 diseases or malformations or lesions of the oral cavity,
5 teeth, gums, or maxillary bones, or shall prepare or fill
6 cavities in human teeth, correct malposition of teeth or
7 jaws or supply artificial teeth as substitutes for natural
8 teeth, or administer anesthetics, general or local, in con-
9 nection with any of said work, or shall make, produce,
10 reproduce, construct, repair, alter, or restore any pros-
11 thetic denture, crown, bridge, or other prosthetic appli-
12 ance to be used in, upon, in connection with, or as a
13 substitute for, any human tooth, or in, upon, or in con-

14 nection with the human jaw or associated structure or
15 tissue of the human mouth, or to be used in the treatment
16 of any condition thereof, or perform any other work in-
17 cluded in the curricular of recognized dental colleges.
18 To open an office for the practice of dentistry, or to an-
19 nounce to the public in any way a readiness to do any
20 act defined herein as the practice of dentistry, shall be
21 construed as engaging in the practice of dentistry, within
22 the meaning of this article: *Provided, however, That*
23 this section:

24 (1) Shall not apply to a duly licensed physician or
25 surgeon in the practice of his profession when rendering
26 dental relief in emergency cases, unless he undertakes to
27 reproduce or reproduces lost parts of the human teeth,
28 or to restore or replace lost or missing teeth in the
29 human mouth.

30 (2) Shall not apply to a dental laboratory in the per-
31 formance of dental technological work as that term is
32 defined in section two-a of this article so long as the
33 dental laboratory, in the performance of such work, con-
34 forms in all respects to the requirements of section two-a
35 of this article, and further shall not apply to persons per-
36 forming dental technological work, as so defined, under
37 the direct and personal supervision of a licensed dentist
38 or under the direct and personal supervision of a person
39 authorized under the authority of this article to perform
40 any of the acts in this article defined to constitute the
41 practice of dentistry so long as such work is performed
42 in connection with, and as a part of, the dental practice
43 of such licensed dentist or other authorized person and
44 for his dental patients.

45 (3) Shall not apply to students enrolled in and regu-
46 larly attending any dental college recognized by the state
47 board of dental examiners, provided their acts are done
48 in said dental college and under the direct and personal
49 supervision of their instructor.

50 (4) Shall not apply to licensed or registered dentists
51 of another state temporarily operating a clinic under
52 the auspices of a duly organized and reputable dental
53 college or reputable dental society, or to one lecturing

54 before a reputable society composed exclusively of
55 dentists.

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

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

**§30-4-3. Who deemed practitioner of dental hygiene; scope
of practice.**

1 A person shall be deemed to be practicing dental hy-
2 giene within the meaning of this article, who, under the
3 supervision of a licensed dentist, removes deposits, ac-
4 cretions and stains from the surface of the teeth, makes
5 topical applications of drugs to the exposed surfaces of
6 the teeth, takes dental x-rays and instructs patients in
7 the practice of dental hygiene procedures: *Provided*,
8 That the board of dental examiners may establish addi-
9 tional criteria by rules and regulations promulgated by it.

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

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

9 The board of dental examiners under such regulations
10 as it may prescribe may issue a temporary permit to
11 practice dentistry or dental hygiene to graduates of
12 schools of dentistry or dental hygiene approved by the
13 board who are certified to the board of directors of dental
14 clinics established by law, by the chief executive of any
15 hospital or sanitarium licensed or operated by the state

16 or by the chief dental officer of the health department of
17 the state. Such permits shall expire thirty days after
18 the date of the next examination given by the board for
19 licenses in dentistry or dental hygiene and shall not be
20 subject to renewal. Such permits shall terminate when
21 the holder thereof ceases to be employed by the person
22 certifying him. A fee of five dollars shall be paid to the
23 board upon issuance of such permit by the person certify-
24 ing the applicant.

25 The board of dental examiners under such regulations
26 as it may prescribe may issue a dental intern or dental
27 residency permit to graduates of dental schools approved
28 by the board who are not licensed to practice dentistry
29 in this state and who have not failed an examination for
30 a license to practice dentistry in this state. Applicants for
31 such permits shall be certified to the board by the director
32 of a hospital operated or licensed by the state which main-
33 tains a dental intern or residency program. Such permits
34 shall authorize the holder thereof to serve as a dental
35 intern or a dental resident for a period of not more than
36 one year in any hospital licensed or operated by the state
37 which maintains an established dental department under
38 the supervision of a licensed dentist. The holder of such
39 a permit shall function under the supervision of the den-
40 tal staff of the hospital and shall limit his practice to
41 patients selected by the hospital. The holder of such a
42 permit shall not be entitled to receive any fee or other
43 compensation other than such salary as may be paid by
44 such hospital. Permits may be revoked by the board for
45 cause and shall expire at the end of one year or on the
46 date the dental internship or residency is discontinued,
47 whichever first occurs. A fee of five dollars shall be paid
48 to the board upon the issuance of such a permit by the
49 hospital nominating him.

50 The board of dental examiners under such regulations
51 as it may prescribe may issue teaching permits to persons
52 who are graduates of a school of dentistry or dental hy-
53 giene approved by the board where such persons are not
54 licensed to practice dentistry or dental hygiene in this
55 state. Such permits shall be issued only upon the cer-

56 tification of the dean of a dental school located in this
57 state that the applicant is a bona fide member of the staff
58 of that school. Such permits shall be valid for one year
59 and may be reissued by the board in its discretion. The
60 holder of such a permit shall be entitled to perform all
61 operations which a person licensed to practice dentistry
62 or dental hygiene in this state would be entitled to per-
63 form, but only within the facilities of the dental school
64 and as an adjunct to his teaching functions in such school.
65 A fee of five dollars shall be paid to the board on the is-
66 suance of a teaching permit or upon each renewal there-
67 of by the school nominating the applicant.

68 Nothing in this article shall be deemed to prohibit the
69 practice of dentistry or dental hygiene by persons li-
70 censed in another state who, at the request of an approved
71 dental or any regularly organized dental society, may
72 give a clinic at such school or at a scientific meeting of
73 such dental society for the purpose of advancing the pro-
74 fessional knowledge of members of the dental profession
75 or members of the student body of a dental school.

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

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

1 An applicant for a dental license shall be of good moral
2 character, a citizen of the United States or an individual
3 who has declared his intention to become and who shows
4 progress toward becoming a citizen of the United States,
5 at least twenty-one years of age at the time of making
6 application, and be a graduate of, and possess an accept-
7 able dental diploma from the faculty of a dental school
8 approved by the board. The board may require the ap-
9 plication to be accompanied by sufficient evidence of
10 these qualifications.

11 The applicant shall transmit with his application an ex-
12 amination fee of thirty-five dollars, which sum the board

13 is authorized to expend in an investigation of the appli-
14 cant's qualifications. No portion of this fee is refundable.

15 An applicant whose application has been accepted by
16 the board shall be given an examination on subjects se-
17 lected by the board from among those currently being
18 taught in approved dental schools which shall test the
19 qualifications of the applicant to practice dentistry. The
20 testing body for such examinations shall be decided
21 by the board under rules and regulations promulgated
22 by it.

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

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

33 The board shall not issue a license to any person found
34 guilty of cheating, deception or fraud in the examination
35 or on any part of the application. All manuscripts used
36 in any examination and all applications for licensure shall
37 be filed for a period of two years by the secretary of the
38 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
2 from another state, as provided in section eight of this
3 article, shall be fifty dollars, and the fee for issuing a
4 certificate to a legal practitioner in this state, as provided
5 in section nine of this article, shall be five dollars, and
6 in each case the fee shall be paid before the license or
7 certificate, respectively, is issued. No portion of these
8 fees are refundable.

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

1 A licensed dentist, or the director of any industrial

3 dental program under the supervision of a licensed
4 dentist, may employ dental hygienists who shall practice
5 under the supervision of a licensed dentist.

6 Under such supervision, a dental hygienist may (1)
7 remove deposits, accretions and stains from the surfaces
8 of the teeth, (2) make topical application of drugs to
9 the exposed surface of the teeth, (3) take dental x-rays,
10 and (4) instruct patients in the practice of dental hygiene
11 procedure: *Provided*, That the board of dental examiners
12 may establish additional criteria by rules and regulations
13 promulgated by it.

14 The state board of dental examiners may suspend or
15 revoke the license of any dental hygienist who shall per-
16 form any operation other than those permitted under the
17 provisions of this section, who shall violate any provision
18 of this article relating to dental hygienists or who shall
19 be found guilty of any of the acts enumerated in section
20 seven of this article.

**§30-4-14. Prerequisites to practice dental hygiene; examina-
tion fee; licensing.**

1 No person who has not been licensed as a dental
2 hygienist in this state on or before the first day of
3 September, one thousand nine hundred thirty-seven, shall
4 practice as a dental hygienist until he has first passed an
5 examination or examinations selected by the West Vir-
6 ginia board of dental examiners and otherwise qualifies
7 under such rules and regulations as the board may estab-
8 lish. Such examination or examinations shall be both
9 practical and theoretical. The fee for the examination
10 shall be twenty dollars and shall accompany the applica-
11 tion. An applicant failing to pass the first examination
12 shall be entitled to one reexamination at next regular
13 meeting of the board without additional cost. The fee
14 for every reexamination after that shall be ten dollars.
15 No portion of these fees are refundable.

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) be
25 a graduate of, and possess an acceptable diploma in dental
26 hygiene from a school having a course in dental hygiene
27 approved by the board of dental examiners.

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

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

5 (1) The performance of intraoral tasks by dental
6 hygienists or assistants shall be under the direct super-
7 vision of the employer-dentist.

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

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

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

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

25 The practice of dental hygiene shall consist of those
26 prophylactic, preventive and other procedures that licensed
27 dentists are authorized by this article and dental examin-

28 ing board rules or regulations to assign only to their em-
29 ployed licensed dental hygienists. The dental examining
30 board shall issue rules or regulations defining the proce-
31 dures that may be performed by licensed dental hygienists
32 engaged in school health activities or employed by public
33 agencies.

**§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
6 another state after full compliance with the requirements
7 of its dental laws: *Provided, however,* That his profes-
8 sional and preliminary education shall not be less than
9 that required in this state, and that he shall have been
10 in active practice at least two years previous to his ap-
11 plication for a license. The fee for issuing a license to a
12 legal practitioner of dental hygiene from another state
13 shall be twenty-five dollars, which shall be paid before
14 the license is issued. No portion of this fee is refundable.

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

1 No licensee shall announce or otherwise hold himself
2 out to the public as a specialist or as being specially
3 qualified in any particular branch of dentistry, or as
4 giving special attention to any branch of dentistry, or as
5 limiting his practice to any branch of dentistry, unless
6 he has first complied with the requirements established
7 by the board of dental examiners for such specialty and
8 has been issued a certificate of qualification authorizing
9 him so to do.

10 The board of dental examiners may establish higher
11 standards and additional requirements for any licensee
12 who desires to announce or otherwise hold himself out
13 to the public as being specially qualified in a branch or
14 specialty of dentistry recognized by the board. The board
15 may give such examinations and secure such assistance

16 as it may deem necessary in determining the qualifica-
17 tions of applicants.

18 The state board of dental examiners may appoint not
19 more than three specialists to examine the credentials
20 of applicants, and each specialist so appointed shall re-
21 ceive ten dollars for each day actually spent in examin-
22 ing the credentials of applicants and shall be entitled to
23 be reimbursed for all reasonable and necessary expenses
24 actually incurred in discharging such duties. The state
25 board of dental examiners may appoint not more than
26 three specialists to administer and grade the specialty
27 examination given to applicants, and each specialist so
28 appointed shall receive forty dollars for each day actually
29 spent in administering and grading such examinations.

30 Application to the board for a certificate of qualification
31 in a specialty of dentistry shall be upon such form and
32 contain such information as the board may require and
33 shall be accompanied by a fee of seventy-five dollars. No
34 portion of this fee is refundable. A licensee found by the
35 board to be qualified under the standards and other re-
36 quirements promulgated by the board in the specialty in-
37 dicated in his application shall be issued a certificate of
38 qualification authorizing the licensee to announce or
39 otherwise hold himself out to the public as specially
40 qualified in the indicated specialty under such terms and
41 in a manner approved by the board.

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

Russell H. Beall

Chairman Senate Committee

Phyllis J. Rutledge

Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Howard W. Carson

Clerk of the Senate

U. Blankenship

Clerk of the House of Delegates

E. Brockert

President of the Senate

Levin D. McMane

Speaker House of Delegates

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

Arch A. Moore Jr.

Governor

PRESENTED TO THE
GOVERNOR

Date 3/17/72

Time 12:30 p.m.