

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 506

Short Title: Dental Hygienists.

(Public)

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Sponsors: Representatives Braswell, Gardner; Allred, Bonner, Boyd-McIntyre, Buchanan, Capps, Carpenter, Clary, Culp, Earle, Easterling, Gulley, Kinney, Luebke, Mitchell, Oldham, Owens, Rayfield, Sexton, and G. Wilson.

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Referred to: Rules, Calendar and Operations of the House.

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March 18, 1999

A BILL TO BE ENTITLED

1 AN ACT AUTHORIZING DENTAL HYGIENIST LICENSURE BY CREDENTIAL  
2 AND AMENDING THE LICENSURE REQUIREMENTS FOR DENTAL  
3 HYGIENISTS.  
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 90-221 reads as rewritten:

7 "**§ 90-221. Definitions.**

8 (a) ~~"Dental hygiene" as used in this Article shall mean the performance of the~~  
9 ~~following functions: Complete oral prophylaxis, application of preventive agents to oral~~  
10 ~~structures, exposure and processing of radiographs, administration of medicaments~~  
11 ~~prescribed by a licensed dentist, preparation of diagnostic aids, and written records of~~  
12 ~~oral conditions for interpretation by the dentist, together with such other and further~~  
13 ~~functions as may be permitted by rules and regulations of the Board not inconsistent~~  
14 ~~herewith.~~

15 (b) ~~"Dental hygienist" as used in this Article, shall mean any person who is a~~  
16 ~~graduate of a Board-accredited school of dental hygiene, who has been licensed by the~~  
17 ~~Board, and who practices dental hygiene as prescribed by the Board.~~

1 (e) ~~"License" shall mean a certificate issued to any applicant upon completion of~~  
2 ~~requirements for admission to practice dental hygiene.~~

3 (d) ~~"Renewal certificate" shall mean the annual certificate of renewal of license to~~  
4 ~~continue practice of dental hygiene in the State of North Carolina.~~

5 (e) ~~"Board" shall mean "The North Carolina State Board of Dental~~  
6 ~~Examiners" created by Chapter 139, Public Laws of 1879, and Chapter 178, Public Laws~~  
7 ~~of 1915 as continued in existence by G.S. 90-22.~~

8 (f) ~~"Supervision" as used in this Article shall mean that acts are deemed to be~~  
9 ~~under the supervision of a licensed dentist when performed in a locale where a licensed~~  
10 ~~dentist is physically present during the performance of such acts and such acts are being~~  
11 ~~performed pursuant to the dentist's order, control and approval.~~

12 The following definitions apply in this Article:

13 (1) Board. – The North Carolina State Board of Dental Examiners.

14 (2) Dental hygiene. – The performance of the following functions:

15 a. Complete oral prophylaxis.

16 b. Application of preventive agents to oral structures.

17 c. Exposure and processing of radiographs.

18 d. Administration of medicaments prescribed by a licensed dentist.

19 e. Preparation of diagnostic aids and written records of oral  
20 conditions for interpretation by the dentist.

21 f. Any other functions permitted by rules of the Board consistent  
22 with this Article.

23 (3) Dental hygienist. – A person who is a graduate of a program accredited  
24 by the American Dental Association Commission on Dental  
25 Accreditation and a Board-approved school of dental hygiene, who has  
26 been licensed by the Board, and who practices dental hygiene as  
27 prescribed by the Board.

28 (4) License. – A certificate issued to any applicant upon completion of  
29 requirements for admission to practice dental hygiene.

30 (5) Licensee. – A person who has been issued a license by the Board to  
31 practice dental hygiene.

32 (6) Renewal certificate. – The annual certificate of renewal of license to  
33 continue practice of dental hygiene in the State.

34 (7) Supervision. – Acts are deemed to be under the supervision of a licensed  
35 dentist when performed in a locale where a licensed dentist is physically  
36 present during the performance of the acts, and the acts are performed  
37 pursuant to the dentist's order, control, and approval."

38 Section 2. G.S. 90-223(a) reads as rewritten:

39 "(a) The Board is authorized and empowered to:

40 (1) ~~Conduct examinations for licensure,~~ licensure.

41 (2) ~~Issue licenses and provisional licenses,~~ licenses.

42 (3) ~~Issue annual renewal certificates, and~~ certificates.

43 (4) Renew expired licenses."

1 Section 3. G.S. 90-223(b) reads as rewritten:

2 "(b) The Board shall have the authority to make or amend rules and regulations not  
3 inconsistent with this Article governing the practice of dental hygiene and the granting,  
4 ~~revocation—revocation,~~ and suspension of licenses ~~and—provisional—licenses—~~of dental  
5 hygienists.

6 (1) Any rule promulgated or amended under this Article shall be filed and  
7 distributed in accordance with the provisions of Article 5 of Chapter  
8 150B of the General Statutes of North Carolina. A copy must be  
9 distributed to all licensed dentists and all licensed dental hygienists  
10 within 30 days of final approval by the Board.

11 (2) The Board shall issue every two years a compilation or supplement of  
12 the Dental Hygiene Act and the Board rules and regulations, and, upon  
13 written request therefor, a directory of dental hygienists to each licensed  
14 dentist and dental hygienist."

15 Section 4. G.S. 90-226 reads as rewritten:

16 "**§ 90-226. Provisional license. License by credential.**

17 (a) ~~The North Carolina State Board of Dental Examiners shall, subject to its rules and~~  
18 ~~regulations,~~ Board shall issue a ~~provisional—~~license to practice dental hygiene to any person  
19 who is licensed to practice dental hygiene anywhere in the United States, or in any  
20 country, ~~territory—territory,~~ or other recognized jurisdiction, if the Board shall determine  
21 that ~~said—the~~ licensing jurisdiction imposed upon ~~said—the~~ person requirements for  
22 licensure no less exacting than those imposed by this ~~State.—State~~ and the person has  
23 graduated from a program accredited by the American Dental Association Commission  
24 on Dental Accreditation. ~~A provisional licensee may engage in the practice of dental hygiene~~  
25 ~~only in strict accordance with the terms, conditions and limitations of her license and with the~~  
26 ~~rules and regulations of the Board pertaining to provisional license.~~

27 ~~(b) A provisional license shall be valid until the date of the announcement of the~~  
28 ~~results of the next succeeding Board examination of candidates for licensure to practice~~  
29 ~~dental hygiene in this State, unless the same shall be earlier revoked or suspended by the~~  
30 ~~Board.~~

31 ~~(c) No person who has failed an examination conducted by the North Carolina~~  
32 ~~State Board of Dental Examiners shall be eligible to receive a provisional license.~~

33 ~~(d) Any person desiring to secure a provisional license shall make application~~  
34 ~~therefor in the manner and form prescribed by the rules and regulations of the Board and~~  
35 ~~shall pay the fee prescribed in G.S. 90-232.~~

36 ~~(e) A provisional licensee shall be subject to those various disciplinary measures~~  
37 ~~and penalties set forth in G.S. 90-229 upon a determination of the Board that said~~  
38 ~~provisional licensee has violated any of the terms or provisions of this Article."~~

39 Section 5. G.S. 90-227 reads as rewritten:

40 "**§ 90-227. Renewal certificates.**

41 (a) The Board shall issue annual renewal certificates to licensed dental ~~hygienists.~~  
42 hygienists who have completed a minimum of six hours of continuing education

1 approved by the Board and have successfully completed a course in cardiopulmonary  
2 resuscitation.

3 (b) The Board shall have the authority to establish in its rules and regulations:

4 (1) The form of application for renewal ~~certificates;~~ certificates.

5 (2) The time the application must be ~~submitted;~~ submitted.

6 (3) The type of certificate to be ~~issued;~~ issued.

7 (4) How the certificate must be ~~displayed;~~ displayed.

8 (5) The penalty for late ~~application;~~ application.

9 (6) The automatic loss of license if applications are not submitted."

10 Section 6. G.S. 90-229 reads as rewritten:

11 "**§ 90-229. Disciplinary measures.**

12 (a) ~~The North Carolina State Board of Dental Examiners~~ Board shall have the power  
13 and authority to (i) ~~Refuse~~ refuse to issue a license to practice dental hygiene; (ii) ~~Refuse~~  
14 refuse to issue a certificate of renewal to practice dental hygiene; (iii) ~~Revoke~~ revoke or  
15 suspend a license to practice dental hygiene; and (iv) ~~Invoke~~ invoke such other  
16 disciplinary measures, ~~ensure~~ censure, or probative terms against a licensee as it deems  
17 ~~proper;~~ proper in any ~~instance~~ or instances in which the Board is satisfied that ~~such~~ the  
18 applicant or licensee:

19 (1) Has engaged in any ~~act~~ or acts of fraud, ~~deceit~~ deceit, or  
20 misrepresentation in obtaining or attempting to obtain a license or the  
21 renewal ~~thereof;~~ thereof.

22 (2) Has been convicted of any of the criminal provisions of this Article or  
23 has entered a plea of guilty or nolo contendere to any ~~charge~~ or charges  
24 arising ~~therefrom;~~ therefrom.

25 (3) Has been convicted of or entered a plea of guilty or nolo contendere to  
26 any felony charge or to any misdemeanor charge involving moral  
27 ~~turpitude;~~ turpitude.

28 (4) Is a chronic or persistent user of intoxicants, ~~drugs~~ drugs, or narcotics to  
29 the extent that the same impairs his or her ability to practice dental  
30 ~~hygiene;~~ hygiene.

31 (5) Is incompetent in the practice of dental ~~hygiene;~~ hygiene.

32 (6) Has engaged in any act or practice violative of any of the provisions of  
33 this Article or violative of any of the rules and regulations promulgated  
34 and adopted by the Board, or has aided, ~~abetted~~ abetted, or assisted any  
35 other person or entity in the violation of the ~~same;~~ same.

36 (7) Has practiced any fraud, ~~deceit~~ deceit, or misrepresentation upon the  
37 public or upon any individual in an effort to acquire or retain any ~~patient~~  
38 or patients; patients.

39 (8) Has made fraudulent or misleading statements pertaining to his or her  
40 skill, knowledge, or method of treatment or ~~practice;~~ practice.

41 (9) Has committed any fraudulent or misleading acts in the practice of  
42 dental ~~hygiene;~~ hygiene.

- 1 (10) Has, in the practice of dental hygiene, committed ~~an act or acts~~  
 2 constituting ~~malpractice;~~ malpractice.
- 3 (11) Has employed a person not licensed in this State to do or perform any  
 4 act or service, or has aided, ~~abetted~~ abetted, or assisted any ~~such~~  
 5 unlicensed person to do or perform any act or service ~~which that~~ cannot  
 6 lawfully be done or performed by ~~such person;~~ the person.
- 7 (12) Has engaged in any unprofessional conduct as the same may be from  
 8 time to time, defined by the rules and regulations of the ~~Board;~~ Board.
- 9 (13) Is mentally, emotionally, or physically unfit to practice dental hygiene  
 10 or is afflicted with such a physical or mental disability as to be deemed  
 11 dangerous to the health and welfare of patients. An adjudication of  
 12 mental incompetency in a court of competent jurisdiction or a  
 13 determination thereof by other lawful means shall be conclusive proof  
 14 of unfitness to practice dental hygiene unless or until such person shall  
 15 have been subsequently lawfully declared to be mentally competent.

16 (b) ~~As used in this section the term "licensee" includes licensees and provisional~~  
 17 ~~licensees and the term "license" includes licenses and provisional licenses."~~

18 Section 7. G.S. 90-231 reads as rewritten:

19 "**§ 90-231. Opportunity for licensee or applicant to have hearing.**

20 (a) With the exception of applicants for reinstatement after revocation, every  
 21 applicant for a license ~~or provisional license~~ to practice dental hygiene or licensee ~~or~~  
 22 ~~provisional licensee to practice dental hygiene shall~~ shall, after ~~notice~~ notice, have an  
 23 opportunity to be heard before the ~~North Carolina State Board of Dental Examiners~~ Board  
 24 shall take any action the effect of which would be:

- 25 (1) To deny permission to take an examination for licensing for which  
 26 application has been duly ~~made;~~ made.
- 27 (2) To deny a license after examination for any cause other than failure to  
 28 pass an ~~examination;~~ examination.
- 29 (3) To withhold the renewal of a license for any cause other than failure to  
 30 pay a statutory renewal ~~fee;~~ fee.
- 31 (4) To suspend a ~~license;~~ license.
- 32 (5) To revoke a ~~license;~~ license.
- 33 ~~(6) To revoke or suspend a provisional license; or~~
- 34 (7) To invoke any other disciplinary measures, ~~censure~~ censure, or probative  
 35 terms against a ~~licensee or provisional licensee;~~ licensee.

36 ~~such proceedings to~~ Proceedings under this section shall be conducted in accordance with  
 37 the provisions of Chapter 150B of the General ~~Statutes of North Carolina.~~ Statutes.

38 (b) In lieu of or as a part of such hearing and subsequent proceedings the Board is  
 39 authorized and empowered to enter any consent order relative to the discipline, censure,  
 40 or probation of a ~~licensee, provisional licensee or an applicant for a license or provisional~~  
 41 ~~license,~~ or relative to the revocation or suspension of a ~~license or provisional license.~~

42 (c) Following the service of the notice of hearing as required by Chapter 150B of  
 43 the General Statutes, the Board and the person upon whom such notice is served shall

1 have the right to conduct adverse examinations, take depositions, and engage in such  
2 further discovery proceedings as are permitted by the laws of this State in civil matters.  
3 The Board is hereby authorized and empowered to issue such orders, commissions,  
4 notices, subpoenas, or other process as might be necessary or proper to effect the  
5 purposes of this subsection; provided, however, that no member of the Board shall be  
6 subject to examination hereunder."

7 Section 8. G.S. 90-232 reads as rewritten:

8 **"§ 90-232. Fees.**

9 In order to provide the means of carrying out and enforcing the provisions of this  
10 Article and the duties devolving upon the North Carolina State Board of Dental  
11 Examiners, it is authorized to charge and collect fees established by its rules and  
12 regulations not exceeding the following:

- 13 (1) Each applicant for examination 125.00  
14 (2) Each renewal certificate, which fee shall be annually fixed by the Board  
15 and not later than November 30 of each year it shall give written notice  
16 of the amount of the renewal fee to each dental hygienist licensed to  
17 practice in this State by mailing such notice to the last address of record  
18 with the Board of each such dental hygienist 60.00  
19 (3) Each restoration of license 60.00  
20 (4) Each ~~provisional~~ license by credential 60.00  
21 (5) Each certificate of license to a resident dental hygienist desiring to  
22 change to another state or territory 25.00.

23 All fees shall be payable in advance to the Board and shall be disposed of by the Board in  
24 the discharge of its duties under this Article."

25 Section 9. G.S. 90-233 reads as rewritten:

26 **"§ 90-233. Practice of dental hygiene.**

27 (a) A dental hygienist may practice only under the supervision of one or more  
28 licensed dentists. ~~Provided, however, that this subsection (a) The provisions of this~~  
29 subsection shall be deemed to be complied with in the case of dental hygienists employed  
30 by the Department of Environment, Health, Environment and Natural Resources and  
31 especially trained by said that Department as public health hygienists while performing  
32 their duties in the public schools under the direction of a duly licensed dentist.

33 (b) A dentist in private practice may not ~~employ~~ utilize more than two dental  
34 hygienists at one and the same ~~time~~ time. ~~who are employed in clinical dental hygiene~~  
35 ~~positions.~~

36 (c) Dental hygiene may be practiced only by the holder of a license ~~or provisional~~  
37 ~~license~~ currently in effect and duly issued by the Board. The following acts, practices,  
38 functions ~~functions,~~ or operations, however, shall not constitute the practice of dental  
39 hygiene within the meaning of this Article:

- 40 (1) The teaching of dental hygiene in a school or college approved by the  
41 Board in a board-approved program by an individual licensed as a  
42 dental hygienist in any state in the United States.

- 1           (2) Activity which would otherwise be considered the practice of dental  
2 hygiene performed by students enrolled in a school or college approved  
3 by the Board in a board-approved dental hygiene program under the  
4 direct supervision of a dental hygienist or a dentist duly licensed in  
5 North Carolina or qualified for the teaching of dentistry pursuant to the  
6 provisions of G.S. 90-29(c)(3), acting as an instructor.
- 7           (3) Any ~~act or~~ acts performed by an assistant to a dentist licensed to practice  
8 in this State when said act or acts are authorized and permitted by and  
9 performed in accordance with rules and regulations promulgated by the  
10 Board.
- 11           (4) Dental assisting and related functions as a part of their instructions by  
12 students enrolled in a course in dental assisting conducted in this State  
13 and approved by the Board, when such functions are performed under  
14 the supervision of a dentist acting as a teacher or instructor who is either  
15 duly licensed in North Carolina or qualified for the teaching of dentistry  
16 pursuant to the provisions of G.S. 90-29(c)(3)."
- 17 Section 10. This act is effective when it becomes law.