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Summary: Dental Therapists

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**VERSIONS OF THIS BILL**

[12/10/2014](file:///p:\pprever\2015-16\245_20141210.docx)

**A** **BILL**

TO AMEND CHAPTER 15, TITLE 40 OF THE 1976 CODE, RELATING TO DENTISTS, DENTAL HYGIENISTS, AND DENTAL TECHNICIANS, TO PROVIDE THAT DENTAL THERAPISTS ARE AUTHORIZED TO PRACTICE IN SOUTH CAROLINA, TO PROVIDE FOR DEFINITIONS AND THE SCOPE OF AUTHORIZATION, TO PROVIDE THAT NO PERSON SHALL REPRESENT HIMSELF AS A DENTAL THERAPIST WITHOUT A LICENSE, TO PROVIDE FOR THE SERVICES AND PROCEDURES THAT MAY BE PERFORMED BY LICENSED DENTAL THERAPISTS, TO PROVIDE FOR THE LIMITATIONS OF DENTAL THERAPY PRACTICE, INCLUDING PUBLIC SETTINGS AUTHORIZED UNDER FEDERAL LAW AND PRIVATE DENTAL PRACTICES THAT SERVE A POPULATION OF AT LEAST TWENTY‑FIVE PERCENT MEDICAID PATIENTS, TO PROVIDE THAT A DENTAL THERAPIST MAY ONLY PRACTICE PURSUANT TO A WRITTEN COLLABORATIVE AGREEMENT WITH A LICENSED DENTIST AND TO SPECIFY THE REQUIRED TERMS OF EACH COLLABORATIVE AGREEMENT, TO PROVIDE THE PROCEDURE FOR APPLYING FOR A LICENSE TO BE A DENTAL THERAPIST, TO PROVIDE FOR THE CONDITIONS FOR GRANTING A LICENSE TO BE A DENTAL THERAPIST, TO PROVIDE FOR THE PROCEDURE UPON TERMINATION OF A COLLABORATIVE AGREEMENT BETWEEN A DENTAL THERAPIST AND A COLLABORATING DENTIST, TO PROVIDE THAT A DENTAL THERAPIST MUST PERFORM CONTINUING EDUCATION TO BE ELIGIBLE FOR A LICENSE RENEWAL, TO PROVIDE FOR THE FEES FOR LICENSURE, AND TO PROVIDE THAT DENTAL THERAPISTS ARE TO BE RECOGNIZED AS PROVIDERS AND ARE ELIGIBLE TO RECEIVE REIMBURSEMENT FROM THIRD PARTIES; TO AMEND SECTION 40‑15‑120(A) OF THE 1976 CODE, RELATING TO PENALTIES FOR THE PRACTICE OF DENTISTRY OR DENTAL HYGIENE WITHOUT A LICENSE, TO PROVIDE THAT IT IS UNLAWFUL TO PRACTICE DENTAL THERAPY WITHOUT BEING LICENSED BY THE BOARD, OR DURING A PERIOD OF SUSPENSION OR REVOCATION; TO AMEND SECTION 40‑15‑140, RELATING TO THE EXAMINATION OF APPLICANTS FOR LICENSES, TO PROVIDE THAT IT IS THE DUTY OF THE BOARD TO EXAMINE ALL QUALIFIED APPLICANTS FOR A LICENSE TO PRACTICE DENTAL THERAPY; TO AMEND SECTION 40‑15‑170 TO REQUIRE THAT DENTAL THERAPISTS PAY AN ANNUAL REGISTRATION FEE, TO BE SET BY THE BOARD, NOT LATER THAN THE THIRTY‑FIRST OF DECEMBER, AND TO PROVIDE THAT IF AN INDIVIDUAL’S LICENSE TO PRACTICE DENTAL THERAPY IS REVOKED BY ANOTHER STATE FOR CAUSE IT CONSTITUTES GROUNDS FOR REVOCATION IN THIS STATE, AND TO PROVIDE THAT IF A DENTAL THERAPIST FAILS TO RESIDE OR PRACTICE IN SOUTH CAROLINA FOR SIX YEARS HIS LICENSE IS DEEMED INACTIVE; TO AMEND SECTION 40‑15‑180(1), TO PROVIDE THAT THE BOARD MAY RECEIVE COMPLAINTS AGAINST A DENTAL THERAPIST AND MAY PROCEED TO FILE A FORMAL ACCUSATION; TO AMEND SECTION 40‑15‑190, TO PROVIDE FOR MISCONDUCT WHICH CONSTITUTES GROUNDS FOR REVOCATION, SUSPENSION, PROBATION, REPRIMAND, OR OTHER RESTRICTION OF A LICENSE FOR A DENTAL THERAPIST, AND TO PROVIDE REASONABLE ACTIONS THE BOARD MAY TAKE WHEN INVESTIGATING A COMPLAINT AGAINST A DENTAL THERAPIST; TO AMEND SECTION 40‑15‑200, TO PROVIDE THAT IF THE BOARD IS SATISFIED THAT A DENTAL THERAPIST IS GUILTY OF AN OFFENSE CHARGED IN THE FORMAL ACCUSATION, IT MAY REVOKE OR SUSPEND THE LICENSE OR THE REGISTRATION CERTIFICATE, OR ISSUE A PUBLIC OR PRIVATE REPRIMAND, OR TAKE OTHER REASONABLE ACTION; TO AMEND SECTION 40‑15‑212, TO PROVIDE THAT A PERSON WHO PRACTICES DENTAL THERAPY IN VIOLATION OF THIS CHAPTER OR WHO AIDS OR ABETS A PERSON IN VIOLATING THIS CHAPTER, UPON CONVICTION, MUST BE FINED NOT MORE THAN ONE THOUSAND DOLLARS OR IMPRISONED FOR NOT MORE THAN TWO YEARS, OR BOTH; AND TO AMEND SECTION 40‑15‑215, TO PROVIDE THAT ANY FINAL ORDER OF THE BOARD FINDING THAT A DENTAL THERAPIST IS GUILTY OF ANY OFFENSE CHARGED IN A FORMAL ACCUSATION IS PUBLIC KNOWLEDGE, EXCEPT FOR A FINAL ORDER DISMISSING THE ACCUSATION OR DETERMINING THAT A PUBLIC REPRIMAND IS IN ORDER, OR UNLESS STAYED BY THE ADMINISTRATIVE LAW JUDGE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 15, Title 40 of the 1976 Code is amended by adding:

“Article 3

South Carolina Dental Therapist Practice Act

Section 40‑15‑400. As used in this article:

(1) ‘Dental therapist’ means a person licensed under this article who provides dental therapy pursuant to a written collaborative agreement with a dentist.

(2) ‘Board’ means the South Carolina State Board of Dentistry.

(3) ‘Dental therapy’ means the services and procedures specified in Section 40‑15‑430.

(4) ‘Dentist’ means a person licensed to practice dentistry or engage in the administration of any dental health program, pursuant to Section 40‑15‑70.

(5) ‘Direct supervision’ means that a dentist is in the dental office, diagnoses the condition to be treated, authorizes the procedure, and before the dismissal of the patient, evaluates the performance of the dental therapist. This requirement does not mandate that a dentist be present at all times, but he or she must be on the premises involved in supervision and control.

(6) ‘General supervision’ means that a licensed dentist or the South Carolina Department of Health and Environmental Control’s public health dentist has authorized the procedures to be performed but does not require that a dentist be present when the procedures are performed.

Section 40‑15‑410. Nothing in this article prohibits or affects:

(1) The practice of dental therapy by a licensed dentist performing services within his scope of practice;

(2) The practice of dental therapy in the discharge of official duties on behalf of the United States government, including, but not limited to, the armed forces, coast guard, public health service, veterans’ bureau, or bureau of Indian affairs;

(3) The practice of dental therapy pursuant to an education program described in this article; or

(4) The practice of dental therapy under the supervision of a dentist necessary to meet the clinical experience or apprentice requirements of Section 40‑15‑460.

Section 40‑15‑420. No person shall practice dental therapy or represent himself as a dental therapist without being licensed under this article.

Section 40‑15‑430. (1) Subject to the limitations in this section, a dental therapist may provide the following services and procedures:

(a) oral health instruction and disease prevention education, including nutritional counseling and dietary analysis;

(b) preliminary charting of the oral cavity;

(c) making radiographs;

(d) mechanical polishing;

(e) application of topical preventative or prophylactic agents, including fluoride varnishes and pit and fissure sealants;

(f) pulp vitality testing;

(g) application of desensitizing medication or resin;

(h) fabrication of athletic mouth guards;

(i) placement of temporary restorations;

(j) fabrication of soft occlusal guards;

(k) tissue conditioning and soft reline;

(l) atraumatic restorative therapy;

(m) dressing changes;

(n) tooth reimplantation;

(o) administration of local anesthetic;

(p) administration of nitrous oxide

(q) emergency palliative treatment of dental pain;

(r) the placement and removal of space maintainers;

(s) cavity preparation;

(t) restoration of primary and permanent teeth;

(u) placement of temporary crowns;

(v) preparation and placement of preformed crowns;

(w) pulpotomies on primary teeth;

(x) indirect and direct pulp capping on primary and permanent teeth;

(y) stabilization of reimplanted teeth;

(z) extractions of primary teeth;

(aa) suture removal;

(bb) brush biopsies;

(cc) repair of defective prosthetic devices;

(dd) recementing of permanent crowns;

(ee) oral evaluation and assessment of dental disease and the formulation of an individualized treatment plan;

(ff) the supervision of expanded duty dental assistants and dental assistants;

(gg) nonsurgical extractions of periodontally diseased permanent teeth with tooth mobility of plus three to plus four if the teeth are not unerupted, are not impacted, are not fractured, and do not need to be sectioned for removal; and

(hh) the dispensation and administration of the following drugs: analgesics, anti‑inflammatories, preventive medicaments, and antibiotics.

(ii) any services and procedures within the scope of practice of a licensed dental hygienist under Section 40‑15‑80.

(2) A dental therapist is an agent of his collaborating dentist in the performance of all practice related activities including, but not limited to, the ordering of diagnostic, therapeutic, and other dental services.

(3) A dental therapist may supervise no more than a total of four expanded duty dental assistants and dental assistants in any one practice setting. A dental therapist may not supervise an expanded duty dental assistant or dental assistant with respect to tasks that the dental therapist is not authorized to perform.

Section 40‑15‑435. Upon completion of five hundred hours of supervised clinical practice under Section 40–15–460, a dental therapist may provide services within the scope of practice provided in Section 40–15–430 and under the general supervision of a dentist in the following health settings: a hospital; a clinic; a health center reimbursed as a federally qualified health center as defined in 42 United States Code, Section 1395x(aa)(4) (1993) or that has been determined by the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services to meet the requirements for funding under Section 330 of the Public Health Service Act, 42 United States Code, Section 254(b); a federally qualified health center licensed in this State; a public health setting that serves underserved populations as recognized by the federal Department of Health and Human Services; a setting in a county designated as a dental shortage area by the federal Department of Health and Human Services; or a private dental practice that serves a population that is at least 25% patients covered by the South Carolina Healthy Connections program under Title 44 or underserved adults.

Section 40‑15‑440. (A) A dental therapist may only practice dental therapy pursuant to a written collaborative agreement with a licensed dentist. The agreement must, at a minimum, contain the following elements:

(1) Practice settings where services and procedures may be provided;

(2) Any limitations on the services or procedures the dental therapist may provide;

(3) Age and procedure‑specific practice protocols, including case selection criteria, assessment guidelines, and imaging frequency;

(4) Procedures for creating and maintaining dental records for patients treated by the dental therapist;

(5) A plan to manage medical emergencies in each practice setting where the dental therapist provides care;

(6) A quality assurance plan for monitoring care provided by the dental therapist, including patient care review, referral follow‑up, and a quality assurance chart review;

(7) Protocols for administering and dispensing medications, including the specific circumstances under which the medications may be dispensed and administered;

(8) Criteria relating to the provision of care to patients with specific medical conditions or complex medical histories, including requirements for consultation prior to the initiation of care; and

(9) Specific written protocols governing situations where the dental therapist encounters a patient requiring treatment that exceeds the dental therapist’s scope of practice or capabilities.

(B)(1) In addition to the elements specified in subsection (A), a written collaborative agreement with a dental therapist must specify the services and procedures the dental therapist is authorized to provide.

(2) All of the services and procedures the dental therapist provides pursuant to the collaborative agreement shall be provided under the general supervision of the collaborating dentist. The collaborating dentist shall accept responsibility for all services and procedures authorized and provided by the dental therapist pursuant to the collaborative agreement.

(3) A collaborating dentist who knowingly permits a dental therapist to provide a service or procedure that is not authorized in the collaborative agreement, or any dental therapist who provides a service or procedure that is not authorized in the collaborative agreement, commits unprofessional conduct for purposes of this chapter.

(C) A dentist who enters into a written collaborative agreement with a dental therapist shall:

(1) Directly provide or arrange for another dentist or specialist to provide any necessary advanced procedures or services needed by the patient or any treatment that exceeds the dental therapist’s scope of practice or capabilities; and

(2) Ensure that he or another dentist is available to the dental therapist for timely consultation during treatment if needed.

(D) Collaborative agreements must be signed and maintained by both the collaborating dentist and the dental therapist. The agreements must be submitted to the board on an annual basis.

(E) A collaborating dentist may enter into a collaborative agreement with no more than a total of five dental therapists at any one time.

(F) A dental therapist may practice without the direct supervision of a dentist. If, however, conditions are diagnosed that are beyond the scope of a dental therapist, the therapist shall refer the case to the collaborating dentist or specialist.

Section 40‑15‑450. An application must be submitted to the board on forms supplied by the board. The application must be complete in every detail before licensure may be issued and must be accompanied by a nonrefundable fee. As part of the application process, the collaborating dentist and dental therapist must specify clearly in detail those dental acts, tasks, or functions for which approval is being sought. The specific dental acts, tasks, or functions must be included in the collaborative agreement, and the collaborative agreement must accompany the application.

Section 40‑15‑460. (A) Except as otherwise provided in this article, an individual must be issued a license from the board before the individual may practice as a dental therapist. The board shall issue a license to an applicant who has submitted a completed application demonstrating that the following requirements have been met:

(1) possession of a license in good standing as a dental hygienist under Section 40‑15‑80;

(2) successful completion of a post‑baccalaureate dental hygiene therapy education program at an institution accredited by the American Dental Association Commission on Dental Accreditation or other national accreditation organization approved by the board;

(3) completion of five hundred hours of dental therapy clinical practice under the supervision of a dentist; and

(4) passage of an examination approved by the board.

Section 40‑15‑470. If the collaborative agreement between a dental therapist and the collaborating dentist is terminated for any reason, the dental therapist and the collaborating dentist shall inform the board immediately in writing of the termination, including the reasons for the termination. The approval of the practice setting terminates coterminous with the termination of the relationship, and practice shall cease until a new collaborative agreement is submitted by a collaborating dentist and is approved by the board.

Section 40‑15‑480. A license issued pursuant to this chapter may be renewed biennially. A person who has not demonstrated continuing education, as required by the board, is not eligible for issuance or renewal of an authorization to practice.

Section 40‑15‑490. (A) Fees for dental therapist licensure are established as follows:

(1) initial licensing fee, not to exceed five hundred dollars;

(2) renewal of license fee, not to exceed one hundred and fifty dollars;

(3) late renewal fee, not to exceed the renewal fee doubled;

(4) reactivation application fee, not to exceed two hundred dollars;

(5) change in supervisor fee, not to exceed one hundred and fifty dollars;

(6) additional primary supervisor for dual employment fee, not to exceed one hundred and fifty dollars.

(B) Fees may be adjusted biennially pursuant to Section 40‑1‑50 to ensure that they are sufficient but not excessive to cover expenses including the total of the direct and indirect costs to the State for the operations of the committee.

Section 40‑15‑500. A licensed dental therapist practicing in this State shall be recognized as a provider. Any service performed by a dentist, dental hygienist, or dental assistant licensed in this State that is reimbursed by private insurance, a dental service corporation, the South Carolina Healthy Connections program or any other South Carolina Medicaid program initiated under Title XIX of the Social Security Act must also be covered and reimbursed when performed by a dental therapist authorized to practice under this article.”

SECTION 2. Section 40‑15‑120(A) of the 1976 Code is amended to read:

“Section 40‑15‑120. (A) It is unlawful for a person to:

(1) practice or attempt or offer to practice dentistry, dental therapy, or dental hygiene in the State without having been licensed by the board; or

(2) practice or attempt or offer to practice dentistry, dental therapy, or dental hygiene, or perform dental technological work in the State during any period of suspension or revocation of his license or registration certificate; or

(3) perform dental technological work without being registered by the board or if unregistered, without performing the work under the direction and control of a registered dental technician present on the premises or under the direction and control of a licensed dentist and on the dentist’s premises; or

(4) perform orthodontic technological work without being a registered dental or orthodontic technician or if unregistered, without performing the work under the direction or control of a registered dental or orthodontic technician and on the technician’s premises, or under the direction and control of a licensed dentist and on the dentist’s premises.”

SECTION 3. Section 40–15–140 of the 1976 Code is amended to read:

“Section 40–15–140. It is the duty of the board to examine (or cause to be examined) all qualified applicants for a license to practice dentistry, dental therapy, or dental hygiene or who desire to be registered as dental technicians in this State. No examination is required to be registered as an orthodontic technician. Prior to admittance to the examination or the registration of an orthodontic technician, each applicant shall produce evidence satisfactory to the board that he possesses good moral character. If the board refuses an applicant admission to the examination or registration as an orthodontic technician because of unsuitable moral character the board shall notify the applicant in writing and set forth in detail the reason supporting the board’s decision. An applicant who holds a license or certificate from any jurisdiction shall certify that he has not violated any of the provisions of the Dental Practice Act governing his prior license or practice or operation. In addition, each applicant shall present the following:

(a) in the case of applicants to practice dentistry, dental therapy, or dental hygiene, satisfactory evidence of graduation from a dental college or school of dental hygiene, respectively, accredited by the Commission.

(b) in the case of applicants who desire to be registered as dental technicians, a high school diploma, or its equivalent, and satisfactory evidence of successful completion of a full two year course of study in a school for dental technological work acceptable to the board, or in lieu of the dental school program, the applicant must have performed dental technological work under the direct supervision of a licensed dentist or registered dental technician for a period of at least three years.

The application must be received by the board not less than forty five days before the examination date. An application for registration as an orthodontic technician may be submitted at any time. Each applicant shall pay to the board a fee as prescribed by it by rules and regulations. Each applicant must satisfactorily pass the examination prepared by the board on subjects and operations pertaining to dentistry that are regularly taught in such accredited schools. The examination must be given either orally or in writing, or by requiring a practical demonstration of the applicant’s skill, or by any combination of such methods as the board may in its discretion require. The board shall grade each examination and inform the applicant of the result within a reasonable time after the date thereof. The board shall issue a numbered license to each person who passes the dental or dental hygiene examination and a numbered certificate to each person who passes the dental technician examination and to each applicant to be registered as an orthodontic technician. All examination papers must be retained by the board for two years and upon request be available for inspection by a person examined.

Dentists and dental hygienists, and dental technicians who are validly licensed or registered in this State as of April 13, 1968, are exempt from reexamination except in instances where application for relicensing or reregistration is made following a period of suspension or revocation of a license or registration certificate, in which instances reexamination is discretionary with the board.

Dental and dental therapy examinations must be given annually by the board and dental hygienist and dental technician examinations must be given semiannually by the board.”

SECTION 4. Section 40–15–170 of the 1976 Code is amended to read:

“Section 40–15–170. The secretary of the board shall on or about the fifteenth day of October of each year send a reregistration application to the last address furnished the board of each person licensed or registered by the board. The failure to receive the application does not excuse a failure to reregister, as required by this chapter. An annual registration fee, to be set by the board, shall cover fully all costs and is payable by each licensed dentist, dental therapist, and dental hygienist and each registered dental technician not later than the thirty first of December. In setting the license fees for the year 1987–88, the board must set the license fees for each classification so that in the aggregate the revenues generated from all license fees for the year will equal one hundred fifteen percent of its total expenditures during the previous year. If reregistration is not completed by the thirty first of December, the fee must be doubled. If the licensee or dental technician fails to reregister by the thirty first of January of the following year, the secretary of the board shall notify the licensee or dental technician by registered mail at his last known address that failure to reregister by the first of March will result in the license or registration expiring as of the first of March. After the thirty first of January, an additional five dollar penalty is added each day until the reregistration fee is paid. Any expired license may be reinstated or any dental technician may be reregistered by taking the licensure or dental technician examination or appearing in person before the board with a satisfactory explanation for the failure to reregister. An orthodontic technician may be reregistered by submitting a completed application or appearing in person before the board with a satisfactory explanation for the failure to reregister. It is the responsibility of each licensee or dental technician to keep the office of the secretary notified of his current mailing address.

If an individual’s license to practice dentistry, dental therapy, or dental hygiene is revoked by another state for cause this shall, in the discretion of the board, constitute grounds for revocation of his South Carolina license. The license of a dentist, dental therapist, or dental hygienist who does not either reside or practice in South Carolina for a period of six successive years is considered inactive. The time spent in active service by any person in the armed forces or public health service of the United States or with the Veterans’ Administration is not construed as absence from or failure to practice in the State. Relicensing after an absence of over six years may be made at the discretion of the board upon proof of high professional fitness and moral character.”

SECTION 5. Section 40‑15‑180(1) of the 1976 Code is amended to read:

“Section 40‑15‑180. (1) The board shall receive complaints by any person against a licensed dentist, dental therapist, or dental hygienist, or against a registered dental technician, and shall require the same to be submitted to it in the form of an affidavit. Upon receipt of a complaint, the director, or such other person as the president may designate, shall investigate the allegations of the complaint and make a report to the board concerning his investigation. If the board shall then desire to proceed further it may, in its discretion, file a formal accusation charging the dentist, dental therapist, dental hygienist, or dental technician with a violation of a provision of this chapter. The accusation shall be signed by the president or vice‑president on behalf of the board. When the accusation is filed, and the board shall set a date for a hearing thereon, the director of the board shall notify the accused in writing, not less than thirty days prior to the hearing date, of the date fixed for the hearing and a true copy of the accusation shall be attached to the notice. The accused may appear and show cause why his license should not be suspended or revoked. The accused shall have the right to be confronted with and to cross‑examine the witnesses against him and shall have the right to counsel. In instances where a board member has made the initial investigation of a complaint, he shall not sit with the board at the hearing of such complaint.”

SECTION 6. Section 40‑15‑190 of the 1976 Code is amended to read:

“Section 40‑15‑190. (A) Misconduct which constitutes grounds for revocation, suspension, probation, reprimand, or other restriction of a license or certificate or a limitation or other discipline of a dentist, dental therapist, dental hygienist, or dental technician occurs when the holder of a license or certificate:

(1) has made a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act in connection with a licensure or registration requirement;

(2) has been convicted of a felony or other crime involving moral turpitude or controlled substances; forfeiture of bond or a plea of nolo contendere is equivalent to a conviction;

(3) is unable to practice dentistry, dental therapy, or dental hygiene or to perform dental technological work with reasonable skill and safety to patients by reason of physical illness or disability, mental illness, or the illness of alcoholism or substance abuse;

(4) has employed or permitted an unlicensed or unregistered person to practice dentistry, dental therapy, or dental hygiene or to perform dental technological work except as permitted under this chapter;

(5) has published, circulated, or made public in any manner, directly or indirectly, a false, fraudulent, deceptive, or misleading statement as to the skill or methods or practice of a dentist, dental therapist, dental hygienist, or dental technician;

(6) has instructed, advised, or required a patient to deal directly with an organization or individual performing dental technological work;

(7) has failed to provide and maintain reasonable sanitary facilities or conditions;

(8) has failed to provide adequate radiation safeguards;

(9) has violated the principles of ethics in the practice of dentistry as promulgated in the regulations of the State Board of Dentistry;

(10) has practiced fraud or deceit in the practice of dentistry or dental hygiene or in the performance of any dental technological work;

(11) has represented the care being rendered to a patient or the performance of dental technological work or the fees being charged for providing the care or work in a false or misleading manner;

(12) has used a false, fraudulent, deceptive, or misleading statement in a document including, but not limited to, claims for reimbursement from third parties connected with the practice of dentistry, dental therapy, dental hygiene, or dental technological work;

(13) has obtained a fee which is charged or a reimbursement from third parties or has assisted in obtaining the fees or reimbursement through dishonesty or under false or fraudulent circumstances;

(14) has failed to meet the standards of care in the practice of dentistry, dental therapy, or dental hygiene or the performance of dental technological work;

(15) has violated any provision of this chapter regulating the practice of dentistry, dental therapy, dental hygiene, or dental technological work or the regulations promulgated by the board;

(16) has committed an act which would constitute battery upon a patient;

(17) has solicited or accepted dental technological work directly from the general public;

(18) has engaged in fraud, deceit, or misrepresentation in dealings with licensed dentists;

(19) has dispensed, prescribed, administered, or obtained drugs for any use or in any regimen other than one appropriate for the practice of dentistry.

(B) In investigating misconduct based upon subsection (A)(3), the board upon reasonable grounds may:

(1) require a licensee, registrant, or applicant to submit to a mental or physical examination by physicians designated by the board. The results of an examination are admissible in a hearing before the board, notwithstanding a claim of privilege under any other provision of law. A person who accepts the privilege of practicing dentistry or dental hygiene or performing dental technology in this State or who files an application for a license to practice dentistry, dental therapy, or dental hygiene or to register as a dental technician in this State is deemed to have consented to submit to a mental or physical examination and to have waived all objections to the admissibility of the results in a hearing before the board upon the grounds of privileged communication. If a licensee, registrant, or applicant fails to submit to an examination when properly directed to do so by the board, unless the failure was due to circumstances beyond the person’s control, the board shall enter an order automatically suspending or denying the license or registration pending compliance and further order of the board. A licensee, registrant, or applicant who is prohibited from practicing dentistry, dental therapy, or dental hygiene or performing dental technological work under this subsection must be afforded at reasonable intervals an opportunity to demonstrate to the board the ability to resume or begin the practice of dentistry, dental therapy, or dental hygiene or performing dental technological work with reasonable skill and safety to patients;

(2) obtain records specifically relating to the mental or physical condition of a licensee, registrant, or applicant that is the subject of an investigation authorized by item (1), and these records are admissible in a hearing before the board, notwithstanding any other provision of law. A person who accepts the privilege of practicing dentistry, dental therapy, or dental hygiene or performing dental technological work in this State or files an application to practice dentistry, dental therapy, or dental hygiene or to perform dental technological work in this State is deemed to have consented to the board obtaining these records and to have waived all objections to the admissibility of these records in a hearing before the board upon the grounds of a privileged communication. If a licensee, registrant, or applicant refuses to sign a written consent for the board to obtain these records when properly requested by the board, unless the failure was due to circumstances beyond the person’s control, the board shall enter an order automatically suspending or denying the license or registration pending compliance and further order of the board. A licensee, registrant, or applicant who is prohibited from practicing dentistry, dental therapy, or dental hygiene or performing dental technological work under this subsection must be afforded at reasonable intervals an opportunity to demonstrate to the board the ability to resume or begin the practice of dentistry, dental therapy, or dental hygiene or performing dental technological work with reasonable skill and safety to patients.”

SECTION 7. Section 40‑15‑200 of the 1976 Code is amended to read:

“Section 40‑15‑200. If the board is satisfied that the dentist, dental therapist, dental hygienist, or dental technician is guilty of an offense charged in the formal accusation provided for in this chapter, it may revoke or suspend the license or the registration certificate, reprimand the dentist, dental therapist, dental hygienist, or dental technician publicly or privately, or take other reasonable action short of revocation or suspension including, but not limited to, probation or requiring the person to undertake additional professional training subject to the direction and approval of the board, psychiatric evaluations, controlled substance restrictions, institutional practice under supervision, and other actions considered appropriate by the board. In addition to or instead of actions taken by the board affecting the license of a licensee or the registration certificate of a registrant, when it is established that the licensee or registrant has violated this chapter or any regulation promulgated by the board, the board may require the licensee or registrant to pay a civil penalty of up to ten thousand dollars and the costs of the disciplinary action. All penalties must be remitted to the general fund.

Any decision by the board to revoke, suspend, or otherwise restrict or limit a license or registration certificate or otherwise discipline a licensee or holder of a registration certificate must be by majority vote of the members of the board eligible to participate and is subject to review by an administrative law judge as provided under Article 5 of Chapter 23 of Title 1 upon petition filed by the licensee or holder of a registration certificate with the court and a copy thereof served upon the director of the board within thirty days from the date of delivery of the board’s decision to the licensee or holder of the registration certificate. The review is governed by Chapter 23 of Title 1.”

SECTION 8. Section 40‑15‑212 of the 1976 Code is amended to read:

“Section 40‑15‑212. A person who practices dentistry, dental therapy, or dental hygiene or performs dental technological work, in violation of this chapter or who aids or abets a person in violating this chapter, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than two years, or both. Each day a violation occurs constitutes a separate offense.”

SECTION 9. Section 40‑15‑215 of the 1976 Code is amended to read:

“Section 40‑15‑215. Any final order of the board finding that a dentist, dental therapist, dental hygienist, or dental technician is guilty of any offense charged in a formal accusation is public knowledge except for a final order dismissing the accusation or determining that a private reprimand is in order or unless stayed by an administrative law judge as provided under Article 5 of Chapter 23 of Title 1 or the board. Any final order which is made public may be mailed to local and state dental associations and all hospitals in which the respondent has staff privileges, to states where the dentist, dental hygienist, or dental technician has a license or certificate as known to the board, or to any other agency the board considers appropriate. If a license or certificate is voluntarily limited or surrendered by the holder, a public record of the existence and duration of the limitation or surrender must be maintained by the board, and no further distribution of the information may be made. All information, investigations, and proceedings concerning the circumstances underlying an action by the holder of the license or certificate is privileged and confidential.”

SECTION 10. The Code Commissioner is directed to redesignate Section 40‑15‑10 through Section 40‑15‑380 of the 1976 Code as “Article 1”.

SECTION 11. This act takes effect upon approval by the Governor.

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