

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 54.1-2703, 54.1-2704, 54.1-2706, 54.1-2709, 54.1-2712, 54.1-2712.1, 54.1-2713, 54.1-2715, 54.1-2718, 54.1-2720, 54.1-2722, 54.1-2726, 54.1-2726.1, 54.1-2728, and 54.1-2729 of the Code of Virginia, and to repeal §§ 54.1-2710 and 54.1-2723 of the Code of Virginia, relating to the practice of dentistry and dental hygiene.*

[H 2368]

Approved

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2703, 54.1-2704, 54.1-2706, 54.1-2709, 54.1-2712, 54.1-2712.1, 54.1-2713, 54.1-2715, 54.1-2718, 54.1-2720, 54.1-2722, 54.1-2726, 54.1-2726.1, 54.1-2728, and 54.1-2729 of the Code of Virginia are amended and reenacted as follows:**

§ 54.1-2703. Inspection of dental offices and laboratories.

~~Every member and employee~~ *Employees of the Board Department of Health Professions*, when properly identified, shall be authorized, during ordinary business hours, to enter and inspect any dental office or dental laboratory for the purpose of enforcing the provisions of this chapter.

§ 54.1-2704. Nominations.

Nominations may be made for each professional vacancy from a list of three names submitted to the Governor by the Virginia Dental Association, the Old Dominion State Dental Society, ~~and the Virginia Dental Hygienists' Association, and the Commonwealth Dental Hygienists' Society.~~ Further, any licensee of this chapter may submit nominations to the Governor. ~~The Governor may notify the Virginia Dental Association, the Old Dominion State Dental Society and the Virginia Dental Hygienists' Association of any professional vacancy other than by expiration.~~ The Governor shall not be bound to make any appointment from among the nominees.

§ 54.1-2706. Revocation or suspension; other sanctions.

The Board may refuse to admit a candidate to any examination, refuse to issue a license to any applicant, suspend for a stated period or indefinitely, or revoke any license or censure or reprimand any licensee or place him on probation for such time as it may designate for any of the following causes:

1. Fraud, deceit or misrepresentation in obtaining a license;
2. The conviction of any felony or the conviction of any crime involving moral turpitude;
3. Use of alcohol or drugs to the extent that such use renders him unsafe to practice dentistry or dental hygiene;
4. Any unprofessional conduct likely to defraud or to deceive the public or patients;
5. Intentional or negligent conduct in the practice of dentistry or dental hygiene which causes or is likely to cause injury to a patient or patients;
6. Employing or assisting persons whom he knew or had reason to believe were unlicensed to practice dentistry or dental hygiene;
7. Publishing or causing to be published in any manner an advertisement relating to his professional practice which (i) is false, deceptive or misleading, (ii) contains a claim of superiority, or (iii) violates regulations promulgated by the Board governing advertising;
8. Mental or physical incompetence to practice his profession with safety to his patients and the public;
9. Violating, assisting, or inducing others to violate any provision of this chapter or any Board regulation;
10. Conducting his practice in a manner contrary to the standards of ethics of dentistry or dental hygiene;
11. *Practicing or causing others to practice or* in a manner ~~as to be presenting~~ a danger to the health and welfare of his patients or to the public;
12. Practicing outside the scope of the dentist's or dental hygienist's education, training, and experience;
13. Performing a procedure subject to certification without such valid certification required by the Board pursuant to § 54.1-2709.1 and Board regulations; however, procedures performed pursuant to the provisions of subdivision 5 of § 54.1-2712 as part of an American Dental Association accredited residency program shall not require such certification;
14. The revocation, suspension or restriction of a license to practice dentistry or dental hygiene in another state, possession or territory of the United States or foreign country; or
15. The violation of any provision of a state or federal law or regulation relating to

ENROLLED

HB2368ER

58 manufacturing, distributing, dispensing or administering drugs.

59 § 54.1-2709. License; application; qualifications; examinations.

60 A. No person shall practice dentistry unless he possesses a current valid license from the Board of  
61 Dentistry.

62 B. An application for such license shall be made to the Board in writing and shall be accompanied  
63 by satisfactory proof that the applicant (i) is of good moral character ~~and~~; (ii) is a graduate of an  
64 accredited dental school or college, or dental department of a university or college; (iii) *has passed Part*  
65 *I and Part II of the examination given by the Joint Commission on National Dental Examinations*; (iv)  
66 *has successfully completed a clinical examination acceptable to the Board*; and (v) *has met other*  
67 *qualifications as determined in regulations promulgated by the Board*.

68 C. *The Board may grant a license to practice dentistry to an applicant licensed to practice in*  
69 *another jurisdiction if he (i) meets the requirements of subsection B; (ii) holds a current, unrestricted*  
70 *license to practice dentistry in another jurisdiction in the United States and is certified to be in good*  
71 *standing by each jurisdiction in which he currently holds or has held a license; (iii) has not failed a*  
72 *clinical examination required by the Board in the five years immediately preceding his application (iv)*  
73 *has not committed any act that would constitute grounds for denial as set forth in § 54.1-2706; and (v)*  
74 *has been in continuous clinical practice for five out of the six years immediately preceding application*  
75 *for licensure pursuant to this section. Active patient care in the dental corps of the United States Armed*  
76 *Forces, volunteer practice in a public health clinic, or practice in an intern or residency program may*  
77 *be accepted by the Board to satisfy this requirement.*

78 Persons who have practiced dentistry in another country may submit an application to practice  
79 dentistry in Virginia if they have practiced dentistry in the other country for five consecutive years prior  
80 to application and if the application is accompanied by satisfactory proof that the applicant is a graduate  
81 of an approved dental school or college, or dental department of a university or college. The Board shall  
82 determine what constitutes an approved dental school, college, or dental department of a university.

83 The Board shall grant a license to practice dentistry to all eligible applicants whose performance on  
84 the examination is satisfactory, as determined by the Board.

85 Examinations shall test the qualifications of the applicant to practice dentistry. Within thirty days of  
86 the examination, each applicant shall be notified of his performance.

87 D. The Board shall provide for an inactive license for those dentists who ~~have been fully licensed in~~  
88 ~~the hold a current, unrestricted dental license in the Commonwealth at the time of application for an~~  
89 ~~inactive license and who do not wish to practice in Virginia. No person shall practice in Virginia unless~~  
90 ~~he holds a current, active license.~~ The Board shall promulgate such regulations as may be necessary to  
91 carry out the provisions of this section, including requirements for remedial education to activate a  
92 license.

93 E. *The Board shall promulgate regulations requiring continuing education for any dental license*  
94 *renewal or reinstatement. The Board may grant extensions or exemptions from these continuing*  
95 *education requirements.*

96 The Board shall promulgate regulations to be effective in 280 days or less of the enactment of this  
97 provision.

98 § 54.1-2712. Permissible practices.

99 The following activities shall be permissible:

100 1. Dental assistants or dental hygienists aiding or assisting licensed dentists, *or dental assistants*  
101 *aiding or assisting dental hygienists under the general supervision of a dentist*;

102 2. The performance of mechanical work on inanimate objects only, for licensed dentists, by any  
103 person employed in or operating a dental laboratory;

104 3. Dental students who are enrolled in accredited D.D.S. or D.M.D. degree programs performing  
105 dental operations, under the direction of competent instructors (i) within a dental school or college,  
106 dental department of a university or college, or other dental facility within a university or college that is  
107 accredited by an accrediting agency recognized by the United States Department of Education; (ii) in a  
108 dental clinic operated by a nonprofit organization providing indigent care; (iii) in governmental or  
109 indigent care clinics in which the student is assigned to practice during his final academic year rotations;  
110 (iv) in a private dental office for a limited time during the student's final academic year when under the  
111 direct tutorial supervision of a licensed dentist holding appointment on the dental faculty of the school  
112 in which the student is enrolled; or (v) practicing dental hygiene in a private dental office under the  
113 direct supervision of a licensed dentist holding appointment on the dental faculty of the school in which  
114 the student is enrolled;

115 4. A licensed dentist from another state or country appearing as a clinician for demonstrating  
116 technical procedures before a dental society or organization, convention, or dental college, or performing  
117 his duties in connection with a specific case on which he may have been called to ~~this the~~  
118 Commonwealth; and

5. Dental hygiene students enrolled in an accredited dental hygiene program performing dental hygiene practices as a requisite of the program, under the direction of competent instructors, as defined by regulations of the Board of Dentistry, (i) within a dental hygiene program in a dental school or college, or department thereof, or other dental facility within a university or college that is accredited by an accrediting agency recognized by the United States Department of Education; (ii) in a dental clinic operated by a nonprofit organization providing indigent care; (iii) in a governmental or indigent care clinic in which the student is assigned to practice during his final academic year rotations; or (iv) in a private dental office for a limited time during the student's final academic year when under the direct supervision of a licensed dentist or licensed dental hygienist holding appointment on the dental faculty of the school in which the student is enrolled.

§ 54.1-2712.1. Restricted volunteer license for certain dentists.

A. The Board may issue a restricted volunteer license to a dentist who ~~has~~:

1. Held ~~the corresponding~~ *an unrestricted* license in Virginia or another state as a licensee in good standing ~~at the time the license expired or became inactive~~;

2. ~~Been sponsored and supervised by a dentist who holds an unrestricted license in the Commonwealth and who is volunteering at for a Board-approved public health or community free clinic that provides dental services to populations of underserved people~~;

3. ~~Passed a jurisprudence examination as prescribed by the Board~~ *Has fulfilled the Board's requirement related to knowledge of the laws and regulations governing the practice of dentistry in Virginia*;

4. *Has not failed a clinical examination within the past five years; and*

5. *Has had at least five years of clinical practice.*

B. A person holding a restricted volunteer license under this section shall:

1. Only practice in public health or community free clinics ~~approved by the Board~~ *that provide dental services to underserved populations*;

2. Only treat patients who have been screened by the approved clinic and are eligible for treatment; ~~and~~

3. *Attest on a form provided by the Board that he will not receive remuneration directly or indirectly for providing dental services; and*

4. *Not be required to complete continuing education in order to renew such a license.*

C. *If a dentist with a restricted volunteer license issued under this section has not held an active, unrestricted license and been engaged in active practice within the past five years, he shall only practice dentistry and perform dental procedures if a dentist with an unrestricted Virginia license, volunteering at the clinic, reviews the quality of care rendered by the dentist with the restricted volunteer license at least every thirty 30 days.*

D. A restricted voluntary license granted pursuant to this section shall expire ~~twelve months from the date of issuance and on the June 30 of the second year after its issuance, or shall terminate when the supervising dentist withdraws his sponsorship.~~ Such license may be renewed annually in accordance with regulations promulgated by the Board.

E. A dentist holding a restricted volunteer license issued pursuant to this section is subject to the provisions of this chapter, the regulations promulgated under this chapter, and the disciplinary regulations which apply to all dentists practicing in Virginia ~~with an unrestricted license~~.

§ 54.1-2713. Licenses to teach dentistry; renewals.

Upon payment of the prescribed fee, the Board shall grant, without examination, a license to teach dentistry to any applicant who (i) is a graduate of a dental school or college or the dental department of a college or university approved by the Board of Dentistry; (ii) has a D.D.S. or D.M.D. degree and is otherwise qualified; (iii) is not licensed to practice dentistry in ~~this the~~ Commonwealth; (iv) has not failed an examination for a license to practice dentistry in Virginia; and (v) has a license to practice dentistry in at least one other state. The applicant shall also be certified to be on the faculty of an ~~approved institution accredited program~~ that teaches dentistry. The holder of such a license shall be entitled to perform all operations which a person licensed to practice dentistry would be entitled to perform but only for the express purpose of teaching. This license does not entitle the holder to practice dentistry intramurally or privately or to receive fees for service.

Any license issued under this section shall expire on the ~~second June 30 after its issuance but June 30 of the second year after its issuance or shall terminate when the licensee leaves employment at the accredited dental program.~~ Such license may be renewed annually *thereafter as long as the accredited program certifies to the licensee's continuing employment.*

§ 54.1-2715. Temporary permits for certain clinicians.

A. The Board may issue a temporary permit to a graduate of a dental school or college or the dental department of a college or university, who (i) has a D.D.S. or D.M.D. degree and is otherwise qualified, (ii) is not licensed to practice dentistry in Virginia, and (iii) has not failed an examination for a license

to practice dentistry in ~~this~~ *the* Commonwealth. Such temporary permits may be issued only to those eligible graduates who serve as clinicians in dental clinics operated by (a) the Virginia Department of Health, (b) the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, or (c) a Virginia charitable corporation granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code and operating as a clinic for the indigent and uninsured that is organized for the delivery of primary health care services: (i) as a federal qualified health center designated by the Centers for Medicare and Medicaid Services or (ii) at a reduced or sliding fee scale or without charge.

B. Applicants for temporary permits shall be certified to the ~~secretary~~ *executive director* of the Board by the Commissioner of Health, the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services, or the chief executive officer of a Virginia charitable corporation identified in subsection A. The holder of such a temporary permit shall not be entitled to receive any fee or other compensation other than salary. Such permits shall be valid for no more than two years and shall expire on the ~~second June 30 after their issuance~~ *June 30 of the second year after their issuance*, or shall terminate when the holder ceases to serve as a clinician with the certifying agency or charitable corporation. Such permits may be reissued ~~after their expiration~~ *annually* or may be revoked at any time for cause. *Reissuance or revocation of a temporary permit is in the discretion of the Board.*

C. Dentists licensed pursuant to this chapter may practice as employees of the dental clinics operated as specified in subsection A.

#### § 54.1-2718. Practicing under firm or assumed name.

A. No person shall practice, offer to practice, or hold himself out as practicing dentistry, under a name other than his own. This section shall not prohibit the practice of dentistry by a partnership under a firm name ~~containing only the names of every member of the partnership or prohibit~~, or a licensed dentist from practicing dentistry as the employee of a licensed dentist, practicing under his own name or under a firm name, ~~containing only the names of each member of such firm~~ or as the employee of a professional corporation, or as a member, manager, employee, or agent of a professional limited liability company or as the employee of a dental clinic operated as specified in subsection A of § 54.1-2715.

B. ~~The name of any professional corporation or professional limited liability company shall contain the name of each associate, shareholder, member, manager, employee, or agent engaged in the practice of dentistry on behalf of such professional business entity, and any other words designating its legal status as may be required by law, but no other words other than the initials D.D.S. or D.M.D. following the name of each associate, shareholder, member, manager, employee, or agent so qualified~~ *A dentist, partnership, professional corporation, or professional limited liability company that owns a dental practice may adopt a trade name for that practice so long as the trade name meets the following requirements:*

*1. The trade name incorporates one or more of the following: (i) a geographic location, e.g., to include, but not be limited to, a street name, shopping center, neighborhood, city, or county location; (ii) type of practice; or (iii) a derivative of the dentist's name.*

*2. Derivatives of American Dental Association approved specialty board certifications may be used to describe the type of practice if one or more dentists in the practice are certified in the specialty or if the specialty name is accompanied by the conspicuous disclosure that services are provided by a general dentist in every advertising medium in which the trade name is used.*

*3. The trade name is used in conjunction with either (i) the name of the dentist or (ii) the name of the partnership, professional corporation, or professional limited liability company that owns the practice. The owner's name shall be conspicuously displayed along with the trade name used for the practice in all advertisements in any medium.*

*4. Marquee signage, web page addresses, and email addresses are not considered to be advertisements and may be limited to the trade name adopted for the practice.*

#### § 54.1-2720. Display of name of practitioner.

Every person practicing dentistry under ~~an~~ *authorized* a firm name, and every person practicing dentistry as an employee of another licensed dentist shall conspicuously display his name at the entrance of the office. Any ~~person~~ *licensed dentist* who fails to display his name shall be subject to disciplinary action by the Board.

#### § 54.1-2722. License; application; qualifications; practice of dental hygiene.

A. No person shall practice dental hygiene unless he possesses a *current, active, and* valid license from the Board of Dentistry. The licensee shall have the right to practice dental hygiene in ~~this~~ *the* Commonwealth for the period of his license as set by the Board, under the direction of any licensed dentist.

B. An application for such license shall be made to the Board in writing, and shall be accompanied by satisfactory proof that the applicant (i) is of good moral character ~~and~~, (ii) is a graduate of an accredited dental hygiene program ~~approved by the Board~~ and offered by an accredited institution of higher education, (iii) *has passed the dental hygiene examination given by the Joint Commission on*

Dental Examinations, and (iv) has successfully completed a clinical examination acceptable to the Board.

C. The Board may grant a license to practice dental hygiene to an applicant licensed to practice in another jurisdiction if he (i) meets the requirements of subsection B of this section; (ii) holds a current, unrestricted license to practice dental hygiene in another jurisdiction in the United States; (iii) has not committed any act that would constitute grounds for denial as set forth in § 54.1-2706; and (iv) meets other qualifications as determined in regulations promulgated by the Board.

D. A licensed dental hygienist may, under the direction or general supervision of a licensed dentist and subject to the regulations of the Board, perform services which that are educational, diagnostic, therapeutic, or preventive. These services shall not include the establishment of a final diagnosis or treatment plan for a dental patient. For the purposes of this section, "general supervision" means that a dentist has evaluated the patient and prescribed authorized services to be provided by a dental hygienist; however, the dentist need not be present in the facility while the authorized services are being provided.

The Board shall grant a license to practice dental hygiene to all eligible applicants whose performance on the examination is satisfactory as determined by the Board.

Examinations shall test the qualifications of the applicant to practice dental hygiene. Within thirty days of the examination, each applicant shall be notified of his performance.

The Board shall provide for an inactive license for those dental hygienists who have been fully licensed hold a current, unrestricted license to practice in the Commonwealth at the time of application for an inactive license and who do not wish to practice in Virginia. No person shall practice in Virginia unless he holds a current, active license. The Board shall promulgate such regulations as may be necessary to carry out the provisions of this section, including requirements for remedial education to activate a license.

§ 54.1-2726. Temporary permits for certain hygienists.

A. The Board may issue a temporary permit to a graduate of a school of an accredited dental hygiene program who is otherwise qualified and is not licensed, has not held a license to practice dental hygiene in Virginia, and has not failed an examination for a license to practice dental hygiene in this the Commonwealth, to. Such temporary permits shall be issued only to those eligible graduates who serve in the Department of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services in a dental clinic operated by the Commonwealth or in a Virginia charitable corporation granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code and operated as a clinic for the indigent and uninsured that is organized for the delivery of primary health care services: (i) as a federally qualified health center designated by the Centers for Medicare & Medicaid Services (CMS) or (ii) at a reduced or sliding fee scale or without charge.

B. Applicants for temporary permits shall be certified to the ~~secretary~~ executive director of the Board by the Commissioner of Health or the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services or the chief executive officer of a Virginia charitable corporation pursuant to subsection A. The holder of such permit shall not be entitled to receive any fee or compensation other than salary. Such permits shall be valid for no more than two years and shall expire on the second June 30 after their issuance June 30 of the second year after their issuance, or shall terminate when the holder ceases to be employed by the certifying agency. Such permits may be reissued after their expiration annually or may be revoked at any time for cause. Reissuance or revocation of a temporary permit is in the discretion of the Board.

The holder of a temporary permit shall function under the direction of a dentist.

§ 54.1-2726.1. Restricted volunteer license for certain dental hygienists.

A. The Board may issue a restricted volunteer license to a dental hygienist who has:

1. Held the corresponding an unrestricted license in Virginia or another state as a licensee in good standing at the time the license expired or became inactive;

2. Is sponsored and supervised by a dentist who holds an unrestricted license in the Commonwealth;

3. Is volunteering for a public health or community free clinic that provides dental services to populations of underserved people;

4. Passed a jurisprudence examination as prescribed by the Board Has fulfilled the Board's requirement related to knowledge of the laws and regulations governing the practice of dentistry in Virginia;

3 5. Has not failed a clinical examination within the past five years; and

4 6. Has had at least five years of clinical practice.

B. A person holding a restricted volunteer license under this section shall:

1. Only practice in public health or community free clinics approved by the Board pursuant to regulations promulgated by the Board that provide dental hygiene services to underserved populations;

2. Only treat patients who have been screened by the approved clinic and are eligible for treatment; and

3. Attest on a form provided by the Board that he will not receive remuneration directly or indirectly for providing dental hygiene services; and

4. Not be required to complete continuing education in order to renew such a license.

C. A dental hygienist with a restricted volunteer license issued under this section shall only practice dental hygiene under the direction of a dentist with an unrestricted license in Virginia.

D. A restricted voluntary license granted pursuant to this section shall expire ~~twelve months from the date of issuance and on the June 30 of the second year after its issuance, or shall terminate when the supervising dentist withdraws his sponsorship.~~ Such license may be renewed annually in accordance with regulations promulgated by the Board thereafter as long as the supervising dentist continues to sponsor the licensee.

E. A dental hygienist holding a restricted volunteer license issued pursuant to this section is subject to the provisions of this chapter, the regulations promulgated under this chapter, and the disciplinary regulations which apply to all dental hygienists practicing in Virginia with an unrestricted license.

§ 54.1-2728. Grounds for revocation or suspension.

The Board may revoke or suspend the license of any dental hygienist for any of the causes set forth in Article 4 (§ 54.1-2700 et seq.) of this chapter § 54.1-2706, insofar as applicable to the practice of dental hygiene.

§ 54.1-2729. Continuing education.

A. The Board shall promulgate regulations governing requiring continuing requirements education for dental hygienists licensed pursuant to this article. Such regulations shall require the completion of continuing education courses for any dental hygienist license renewal or reinstatement after April 1, 1995. The Board may grant exceptions or exemptions from these continuing education requirements.

B. The Board shall approve continuing education courses that are directly related to the practice of dental hygiene and the treatment and care of patients. Any licensed hospital, institution of higher education, or national, state, or local health, medical, dental or dental hygiene organization, or individuals thereof may submit applications to the Board for approval as a provider of continuing education courses satisfying the requirements of the Board's regulations. Approved course providers must register continuing education courses with the Board pursuant to Board regulations. Only courses approved by the Board or offered by an approved provider may be designated as qualifying for continuing education course credit.

C. All course providers shall furnish written certification to dental hygienists indicating the satisfactory completion of an approved continuing education course. Each course provider shall retain records of all persons attending and those persons satisfactorily completing such continuing education courses for a period of four years following each course. Applicants for renewal or reinstatement of licenses issued pursuant to this article shall retain for a period of four years the written certification issued by a course provider. The Board may require course providers and licensees to submit copies of such records or certification as it deems necessary to ensure compliance with continuing education requirements.

2. That §§ 54.1-2710 and 54.1-2723 of the Code of Virginia are repealed.

3. That the Board of Dentistry shall promulgate regulations to implement provisions of this act within 280 days of its enactment.