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SENATE BILL NO. 342

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact §§ 54.1-2700, 54.1-2712, and 54.1-2719 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 27 of Title 54.1 a section numbered 54.1-2708.4, relating to registration of dental laboratories.

Patron—Newman

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2700, 54.1-2712, and 54.1-2719 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 27 of Title 54.1 a section numbered 54.1-2708.4 as follows:

§ 54.1-2700. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board of Dentistry;

"Dental hygiene" means cleaning and polishing teeth and assisting the members of the dental profession in providing oral health care and oral health education to the public;

"Dental hygienist" means a person trained in the practice of and practicing dental hygiene;

"Dental laboratory" means any individual or business entity engaged in the manufacture or repair of dental prosthetic appliances;

"Dentist" means a person who has been awarded a degree in and is licensed to practice dentistry;

"Dentistry" means the evaluation, diagnosis, prevention, and treatment, through surgical, nonsurgical or related procedures, of diseases, disorders, and conditions of the oral cavity and the maxillofacial, adjacent and associated structures and their impact on the human body;

"License" means the document issued to an applicant upon completion of requirements for admission to practice dentistry or dental hygiene in this Commonwealth or upon registration for renewal of license to continue the practice of dentistry or dental hygiene in this Commonwealth;

"Maxillofacial" means pertaining to the jaws and face, particularly with reference to specialized surgery of this region.*;*

"Oral and maxillofacial surgeon" means a person who has successfully completed an oral and maxillofacial residency program, approved by the Commission on Dental Accreditation of the American Dental Association, and who holds a valid license from the Board.*;*

"Work authorization" means a written instrument executed by a registered dental laboratory by which such dental laboratory subcontracts all or part of the fabrication or repair of a dental prosthetic appliance authorized by a work order to another dental laboratory. A work authorization may be handwritten and may be faxed or sent electronically using an electronic signature, and shall, at a minimum, contain: (i) the name and address of the subcontractor; (ii) a number identifying the work authorization with the original work order; (iii) the date the work authorization was written; (iv) a description of the work to be done by the subcontractor including diagrams, if necessary; (v) a specification of the type and quality of materials to be used; and (vi) the signature of the person issuing the work authorization;

"Work order" means a written instrument executed by a dentist and directed to a registered dental laboratory authorizing the manufacture or repair of a dental prosthetic appliance for such dentist. A work order may be handwritten and may be faxed or sent electronically using an electronic signature and shall, at a minimum, contain: (i) the name and address of the registered dental laboratory; (ii) the patient's name or initials or an identification number; (iii) the date the work order was written; (iv) a description of the work to be done, including diagrams, if necessary; (v) specification of the type and quality of materials to be used; and (vi) the signature and address of the dentist.

§ 54.1-2708.4. Registration of dental laboratories.

No person shall operate a dental laboratory in the Commonwealth without first registering such dental laboratory with the Board. A dental laboratory shall be considered to be operating within the Commonwealth if its work product is prepared pursuant to a work order originating within the Commonwealth.

However, dental laboratories that operate as an in-office lab, under the direct supervision of a licensed dentist, or in an educational institution as part of the institution's educational program, shall be exempt from registration, provided that such laboratories do not also operate pursuant to work orders

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originating from outside the supervising dentist's office or educational institution.

The Board shall develop regulations governing the operating of dental laboratories, which shall require dental laboratories to:

1. Practice infectious disease control as required by the U.S. Occupational Safety and Health Administration;

2. Disclose to dentists the U.S. Food and Drug Administration registration number of all patient contact materials contained in prescribed restorations. Such numbers shall be included in the patient's record;

3. Disclose to dentists the point of origin of the manufacture of the prescribed restoration. If the restoration was partially or entirely manufactured by a third-party provider, the point of origin disclosure shall identify the portion manufactured by a third-party provider and the city, state, and country of such provider;

4. Perform any manufacture or repair of dental prosthetic appliances only pursuant to a valid work order or a valid work authorization from a registered dental laboratory, authorized by a valid work order. A subcontractor working pursuant to a valid work authorization, and the dental laboratory issuing the work authorization shall retain such authorization, along with the work order from the licensed dentist, for three years.

5. Allow the Board or its agents to inspect its files of work orders or work authorizations during ordinary business hours.

§ 54.1-2712. Permissible practices.

The following activities shall be permissible:

1. Dental assistants or dental hygienists aiding or assisting licensed dentists, or dental assistants aiding or assisting dental hygienists under the general supervision of a dentist in accordance with regulations promulgated pursuant to § 54.1-2729.01;

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

3. Dental students who are enrolled in accredited D.D.S. or D.M.D. degree programs performing dental operations, under the direction of competent instructors (i) within a dental school or college, dental department of a university or college, 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 governmental or indigent care clinics in which the student is assigned to practice during his final academic year rotations; (iv) in a private dental office for a limited time during the student's final academic year when under the direct tutorial supervision of a licensed dentist holding appointment on the dental faculty of the school in which the student is enrolled; or (v) practicing dental hygiene in a private dental office under the direct supervision of a licensed dentist holding appointment on the dental faculty of the school in which the student is enrolled;

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

§ 54.1-2719. Employing registered dental laboratories.

A. Licensed dentists may employ or engage the services of any ~~person, firm or corporation~~ *registered dental laboratory* to construct or repair, extraorally, prosthetic dentures, bridges, or other replacements for a part of a tooth, a tooth, or teeth. A ~~person, firm or corporation so employed or engaged~~ *registered dental laboratory* shall not be considered to be practicing dentistry. No ~~such person, firm or corporation~~*registered dental laboratory* shall perform any direct dental service for a patient, but they may assist a dentist in the selection of shades for the matching of prosthetic devices when the dentist sends the patient to them with a written work order.

B. Any licensed dentist who employs the services of ~~any person, firm or corporation~~ *a dental laboratory* not ~~working~~ in*functioning as part of* a dental office under his direct supervision to construct or repair, extraorally, prosthetic dentures, bridges, replacements, or orthodontic appliances for a part of a

tooth, a tooth, or teeth, shall furnish such ~~person, firm or corporation~~ *dental laboratory* with a ~~written~~ work order on forms prescribed by the Board ~~which shall, at minimum, contain: (i) the name and address of the person, firm or corporation; (ii) the patient's name or initials or an identification number; (iii) the date the work order was written; (iv) a description of the work to be done, including diagrams, if necessary; (v) specification of the type and quality of materials to be used; and (vi) the signature and address of the dentist~~.

The ~~person, firm or corporation~~ *dental laboratory* shall retain the original work order and the dentist shall retain a duplicate for three years.

~~C. If the person, firm or corporation receiving a written work order from a licensed dentist engages a subcontractor to perform services relative to the work order, a written subwork order shall be furnished on forms prescribed by the Board which shall, at minimum, contain: (i) the name and address of the subcontractor; (ii) a number identifying the subwork order with the original work order; (iii) the date the subwork order was written; (iv) a description of the work to be done by the subcontractor including diagrams, if necessary; (v) a specification of the type and quality of materials to be used; and (vi) the signature of the person issuing the subwork order.~~

~~The subcontractor shall retain the subwork order and the issuer shall retain a duplicate attached to the work order received from the licensed dentist for three years.~~

~~D. No person, firm or corporation engaged in the construction or repair of appliances shall refuse to allow the Board or its agents to inspect the files of work orders or subwork orders during ordinary business hours.~~

~~The provisions of this section shall not apply to a work order for the construction, reproduction, or repair, extraorally, of prosthetic dentures, bridges, or other replacements for a part of a tooth, a tooth, or teeth, done by a person, firm or corporation pursuant to a written work order received from a licensed dentist who is residing and practicing in another state.~~

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