

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 54.1-2700 and 54.1-2706 of the Code of Virginia and to amend the*
 3 *Code of Virginia by adding sections numbered 54.1-2709.1 through 54.1-2709.4, relating to the*
 4 *practice of dentistry.*

[S 806]

6 Approved

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

8 **1. That §§ 54.1-2700 and 54.1-2706 of the Code of Virginia are amended and reenacted and that**
 9 **the Code of Virginia is amended by adding sections numbered 54.1-2709.1 through 54.1-2709.4 as**
 10 **follows:**

11 § 54.1-2700. Definitions.

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

13 "Board" means the Board of Dentistry;

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

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

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

18 "Dentistry" means the ~~branch of the healing arts concerned with the prevention, diagnosis, and~~
 19 ~~treatment of diseases and restoration to health of the structure of the oral cavity, including teeth and~~
 20 ~~surrounding and supporting structures evaluation, diagnosis, prevention, and treatment, through surgical,~~
 21 ~~nonsurgical or related procedures, of diseases, disorders, and conditions of the oral cavity and the~~
 22 ~~maxillofacial, adjacent and associated structures and their impact on the human body;~~23 "License" means the document issued to an applicant upon completion of requirements for admission
 24 to practice dentistry or dental hygiene in this Commonwealth or upon registration for renewal of license
 25 to continue the practice of dentistry or dental hygiene in this Commonwealth;26 "*Maxillofacial*" means pertaining to the jaws and face, particularly with reference to specialized
 27 surgery of this region.28 "*Oral and maxillofacial surgeon*" means a person who has successfully completed an oral and
 29 maxillofacial residency program, approved by the Commission on Dental Accreditation of the American
 30 Dental Association, and who holds a valid license from the Board.

31 § 54.1-2706. Revocation or suspension; other sanctions.

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

35 1. Fraud, deceit or misrepresentation in obtaining a license;

36 2. The conviction of any felony or the conviction of any crime involving moral turpitude;

37 3. Use of alcohol or drugs to the extent that such use renders him unsafe to practice dentistry or
 38 dental hygiene;

39 4. Any unprofessional conduct likely to defraud or to deceive the public or patients;

40 5. Intentional or negligent conduct in the practice of dentistry or dental hygiene which causes or is
 41 likely to cause injury to a patient or patients;42 6. Employing or assisting persons whom he knew or had reason to believe were unlicensed to
 43 practice dentistry or dental hygiene;44 7. Publishing or causing to be published in any manner an advertisement relating to his professional
 45 practice which (i) is false, deceptive or misleading, (ii) contains a claim of superiority, or (iii) violates
 46 regulations promulgated by the Board governing advertising;47 8. Mental or physical incompetence to practice his profession with safety to his patients and the
 48 public;49 9. Violating, assisting, or inducing others to violate any provision of this chapter or any Board
 50 regulation;51 10. Conducting his practice in a manner contrary to the standards of ethics of dentistry or dental
 52 hygiene or in a manner presenting a danger to the health and welfare of his patients or to the public;53 11. *Practicing outside the scope of the dentist's or dental hygienist's education, training, and*
 54 *experience;*55 12. *Performing a procedure subject to certification without such valid certification required by the*
 56 *Board pursuant to § 54.1-2709.1 and Board regulations; however, procedures performed pursuant to the*

57 provisions of subdivision 5 of § 54.1-2712 as part of an American Dental Association accredited
 58 residency program shall not require such certification;

59 13. The revocation, suspension or restriction of a license to practice dentistry or dental hygiene in
 60 another state, possession or territory of the United States or foreign country; or

61 ~~12.~~ 14. The violation of any provision of a state or federal law or regulation relating to
 62 manufacturing, distributing, dispensing or administering drugs.

63 B. The Board may direct any licensee under a disciplinary order to furnish it at such intervals as it
 64 may require, evidence that he is not practicing his profession in violation of this chapter. In addition,
 65 when the Board has probable cause to believe the licensee is unable to practice dentistry with reasonable
 66 skill and safety to patients because of excessive use of alcohol or drugs or physical or mental illness, the
 67 Board, after preliminary investigation by informal conference, may direct that the licensee submit to a
 68 mental or physical examination. Failure of the licensee to submit to the examination shall constitute
 69 grounds for disciplinary action. Any licensee affected by this subsection shall be afforded reasonable
 70 opportunity to demonstrate that he is competent to practice dentistry or dental hygiene with reasonable
 71 skill and safety to patients.

72 § 54.1-2709.1. *Certain certification required.*

73 A. *The Board of Dentistry shall promulgate regulations establishing criteria for certification of board*
 74 *certified or board eligible oral or maxillofacial surgeons to perform certain procedures within the*
 75 *definition of dentistry that are unrelated to the oral cavity or contiguous structures, provided such*
 76 *services (i) are not for the prevention and treatment of disorders, diseases, lesions and malpositions of*
 77 *the human teeth, alveolar process, maxilla, mandible, or adjacent tissues, or any necessary related*
 78 *procedures, and are services the training for which is included in the curricula of dental schools or*
 79 *advanced postgraduate education programs accredited by the Commission of Dental Accreditation of the*
 80 *American Dental Association or continuing educational programs recognized by the Board of Dentistry,*
 81 *or (ii) are not provided incident to a head or facial trauma sustained by the patient. The regulations*
 82 *shall include, but need not be limited to, provisions for: (1) promotion of patient safety; (2)*
 83 *identification and categorization of procedures for the purpose of issuing certificates; (3) establishment*
 84 *of an application process for certification to perform such procedures; (4) establishment of minimum*
 85 *education, training, and experience requirements for certification to perform such procedures, including*
 86 *consideration of whether a licensee has been granted practice privileges to perform such procedures*
 87 *from an accredited hospital located in the Commonwealth and consideration of the presentation of a*
 88 *letter attesting to the training of the applicant to perform such procedures from the chairman of an*
 89 *accredited postgraduate residency program; (5) development of protocols for proctoring and criteria for*
 90 *requiring such proctoring; and (6) implementation of a quality assurance review process for such*
 91 *procedures performed by certificate holders.*

92 B. *In promulgating the minimum education, training, and experience requirements for oral and*
 93 *maxillofacial surgeons to perform such procedures and the regulations related thereto, the Board of*
 94 *Dentistry shall consult with an advisory committee comprised of three members selected by the Medical*
 95 *Society of Virginia and three members selected by the Virginia Society of Oral and Maxillofacial*
 96 *Surgeons. All members of the advisory committee shall be licensed by the Board of Dentistry or the*
 97 *Board of Medicine and shall engage in active clinical practice. The committee shall have a duty to act*
 98 *collaboratively and in good faith to recommend the education, training, and experience necessary to*
 99 *promote patient safety in the performance of such procedures. The advisory committee shall prepare a*
 100 *written report of its recommendations and shall submit this report to the Board of Dentistry and shall*
 101 *also submit its recommendations to the Board of Medicine for such comments as may be deemed*
 102 *appropriate, prior to the promulgation of draft regulations. The advisory committee may meet*
 103 *periodically to advise the Board of Dentistry on the regulation of such procedures.*

104 C. *In promulgating the regulations required by this section, the Board shall take due consideration*
 105 *of the education, training, and experience requirements adopted by the American Dental Association*
 106 *Council on Dental Education or the Commission on Dental Accreditation. Further, the Board's*
 107 *regulations shall require that complaints arising out of performance of such procedures be enforced*
 108 *solely by the Board of Dentistry and reviewed jointly by a physician licensed by the Board of Medicine*
 109 *who actively practices in a related specialty and by an oral and maxillofacial surgeon licensed by the*
 110 *Board of Dentistry. However, upon receipt of reports of such complaints the Board of Dentistry shall*
 111 *promptly notify the Board of Medicine which shall maintain the confidentiality of such complaint*
 112 *consistent with § 54.1-2400.2.*

113 § 54.1-2709.2. *Registration and certain data required.*

114 *The Board of Dentistry shall require all oral and maxillofacial surgeons to annually register with the*
 115 *Board and to report and make available the following information:*

- 116 1. *The names of medical schools or schools of dentistry attended and dates of graduation;*
- 117 2. *Any graduate medical or graduate dental education at any institution approved by the*

Accreditation Council for Graduation Medical Education, the Commission on Dental Accreditation, American Dental Association;

3. Any specialty board certification or eligibility for certification as approved by the Commission on Dental Accreditation, American Dental Association;

4. The number of years in active, clinical practice as specified by regulations of the Board;

5. Any insurance plans accepted, managed care plans in which the oral and maxillofacial surgeon participates, and hospital affiliations, including specification of any privileges granted by the hospital;

6. Any appointments, within the most recent ten-year period, of the oral and maxillofacial surgeon to a dental school faculty and any publications in peer-reviewed literature within the most recent five-year period and as specified by regulations of the Board;

7. The location of any primary and secondary practice settings and the approximate percentage of the oral and maxillofacial surgeon's time spent practicing in each setting;

8. The access to any translating service provided to the primary practice setting of the oral and maxillofacial surgeon;

9. The status of the oral and maxillofacial surgeon's participation in the Virginia Medicaid Program;

10. Any final disciplinary or other action required to be reported to the Board by health care institutions, other practitioners, insurance companies, health maintenance organizations, and professional organizations pursuant to §§ 54.1-2906, 54.1-2709.3, and 54.1-2709.4 that results in a suspension or revocation of privileges or the termination of employment or a final order of the Board relating to disciplinary action; and

11. Other information related to the competency of oral and maxillofacial surgeons as specified in the regulations of the Board.

The Board shall promulgate regulations to implement the provisions of this section, including, but not limited to, the release, upon request by a consumer, of such information relating to an oral and maxillofacial surgeon. The regulations promulgated by the Board shall provide for reports to include all paid claims in categories indicating the level of significance of each award or settlement.

§ 54.1-2709.3. Reports of disciplinary action against oral and maxillofacial surgeons; immunity from liability.

A. The presidents of the Virginia Dental Association and the Virginia Society of Oral and Maxillofacial Surgeons shall report to the Board of Dentistry any disciplinary actions taken by his organization against any oral and maxillofacial surgeon licensed under this chapter if such disciplinary action is a result of conduct involving professional ethics, professional incompetence, moral turpitude, drug or alcohol abuse.

B. The president of any association, society, academy or organization shall report to the Board of Dentistry any disciplinary action taken against any oral and maxillofacial surgeon licensed under this chapter if such disciplinary action is a result of conduct involving professional ethics, professional incompetence, moral turpitude, drug addictions or alcohol abuse.

C. Any report required by this section shall be in writing directed to the Board of Dentistry, shall give the name and address of the person who is the subject of the report and shall describe fully the circumstances surrounding the conduct to be reported.

D. Any person making a report required by this section or testifying in a judicial or administrative proceeding as a result of such report shall be immune from any civil liability resulting therefrom unless such person acted in bad faith or with malicious intent.

E. In the event that any organization enumerated in subsection A or any component thereof receives a complaint against an oral and maxillofacial surgeon, such organization may, in lieu of considering disciplinary action against such oral and maxillofacial surgeon, request that the Board investigate the matter pursuant to this chapter, in which event any person participating in the decision to make such a request or testifying in a judicial or administrative proceeding as a result of such request shall be immune from any civil liability alleged to have resulted therefrom unless such person acted in bad faith or with malicious intent.

§ 54.1-2709.4. Further reporting requirements.

A. The following matters shall be reported to the Board:

1. Any disciplinary action taken against an oral and maxillofacial surgeon licensed under this chapter by another state or by a federal health institution or voluntary surrender of a license in another state while under investigation;

2. Any malpractice judgment against an oral and maxillofacial surgeon licensed under this chapter;

3. Any incident of two settlements of malpractice claims against an individual oral and maxillofacial surgeon licensed under this chapter within a three-year period; and

4. Any evidence that indicates to a reasonable probability that an oral and maxillofacial surgeon licensed under this chapter is or may be professionally incompetent, guilty of unprofessional conduct or mentally or physically unable to engage safely in the practice of his profession.

179 *B. The following persons and entities are subject to the reporting requirements set forth in this*
180 *section:*

181 *1. Any oral and maxillofacial surgeon licensed under this chapter who is the subject of a disciplinary*
182 *action, settlement judgment or evidence for which reporting is required pursuant to this section;*

183 *2. Any other person licensed under this chapter, except as provided in the Health Practitioners'*
184 *Intervention Program;*

185 *3. The presidents of all professional societies in the Commonwealth, and their component societies*
186 *whose members are regulated by the Board, except as provided for in the protocol agreement entered*
187 *into by the Health Practitioners' Intervention Program;*

188 *4. All health care institutions licensed by the Commonwealth;*

189 *5. The malpractice insurance carrier of any oral and maxillofacial surgeon who is the subject of a*
190 *judgment or of two settlements within a three-year period. The carrier shall not be required to report*
191 *any settlements except those in which it has participated that have resulted in a least two settlements on*
192 *behalf of an individual oral and maxillofacial surgeon during a three-year period; and*

193 *6. Any health maintenance organization licensed by the Commonwealth.*

194 *C. No person or entity shall be obligated to report any matter to the Board if the person or entity*
195 *has actual notice that the matter has already been reported to the Board.*

196 *D. Any report required by this section shall be in writing directed to the Board, shall give the name*
197 *and address of the person who is the subject of the report and shall describe the circumstances*
198 *surrounding the conduct required to be reported.*

199 *E. Any person making a report required by this section shall be immune from any civil liability or*
200 *criminal prosecution resulting therefrom unless such person acted in bad faith or with malicious intent.*

201 *F. The clerk of any circuit court or any district court in the Commonwealth shall report to the Board*
202 *the conviction of any oral and maxillofacial surgeon known by such clerk to be licensed under this*
203 *chapter of any (i) misdemeanor involving a controlled substance, marijuana or substance abuse or*
204 *involving an act of moral turpitude or (ii) felony.*

205 **2. That the provisions of subdivision 12 of subsection A of § 54.1-2706 and of § 54.1-2709.1 shall**
206 **become effective sixty days after the effective date of the Board's regulations to implement these**
207 **provisions.**

208 **3. That the Board of Dentistry shall promulgate regulations to implement the provisions of**
209 **subdivision 12 of subsection A of § 54.1-2706, §§ 54.1-2709.1 and 54.1-2709.2 within 280 days of**
210 **the enactment of this act.**