

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 623

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 27 of Title 54.1 a section numbered 54.1-2708.1, relating to confidentiality of investigative information; penalty.

[H 1913]

Approved March 25, 1995

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 27 of Title 54.1 a section numbered 54.1-2708.1 as follows:

§ 54.1-2708.1. Confidentiality of investigative information required; penalty.

A. Any reports, information or records received and maintained by the Board in connection with possible disciplinary proceedings, including any material received or developed by the Board during an investigation or hearing, shall be strictly confidential. However, the Board may only disclose any such confidential information:

1. In a disciplinary hearing before the Board or in any subsequent trial or appeal of a Board action or order;

2. To licensing authorities located outside this Commonwealth which are concerned with granting, limiting or denying a dentist or dental hygienist a license to practice if a final determination regarding a violation of this chapter has been made;

3. Pursuant to an order of a court of competent jurisdiction; or

4. To qualified personnel for bona fide research or educational purposes, if personally identifiable information relating to any patient, dentist or dental hygienist is first deleted and a final determination regarding a violation of this chapter has been made.

B. Orders of the Board relating to disciplinary action against a dentist or dental hygienist are not required to be confidential.

C. In no event shall confidential information received, maintained or developed by the Board, or disclosed by the Board to others, pursuant to this section, be available for discovery or court subpoena or introduced into evidence in any medical malpractice suit or other action for damages arising out of the provision of or failure to provide services. However, this section shall not be construed to inhibit an investigation or prosecution under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

D. Any person found guilty of the unlawful disclosure of such confidential information possessed by the Board shall be guilty of a Class 1 misdemeanor.

E. Any claim of physician-patient privilege shall not prevail in any investigation or proceeding by the Board acting within the scope of its authority. However, the disclosure of any information pursuant to this provision shall not be deemed a waiver of such privilege in any other proceeding.

F. This section shall not prohibit the Director of the Department of Health Professions, after consultation with the Board president or his designee, from disclosing to the Attorney General, or the appropriate attorney for the Commonwealth, investigatory information which indicates a possible violation of any provision of law relating to the manufacture, distribution, dispensing, prescribing or administration of drugs other than drugs classified as Schedule VI drugs and devices by any individual licensed or otherwise regulated by the Board of Dentistry.