

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 2962

BY DELEGATES STEELE AND J. PACK

[Originating in the Committee on Government

Organization; March 23, 2021]

1 A BILL to amend and reenact §30-4-13, §30-4-15, §30-4-16, §30-4-17, §30-4-19, §30-4-20, §30-
2 4-22, §30-4-23, and §30-4-24 of the Code of West Virginia, 1931, as amended, all relating
3 to the practice of dentistry; requiring a board authorization be present in the place of
4 practice; making technical corrections to special volunteer dentists; permitting a dentist or
5 group of dentists to form professional limited liability companies; requiring dentists offering
6 anesthesia services to have a valid permit to offer such services; updating and making
7 other technical corrections to the complaint process without removing any notice or other
8 requirements of the board; updating the criteria used when considering disciplinary action
9 and the availability of certain disciplinary sanctions; requiring any person who is a
10 practicing dentist or dental hygienist have a valid license or otherwise be subject to
11 criminal penalties; requiring any person who holds himself or herself out to the public as
12 a dentist or dental hygienist have a valid license or otherwise be subject to criminal
13 penalties; clarifying that a student enrolled in an accredited dental program may, under
14 the supervision of a licensed dentist or dental hygienist perform certain tasks under certain
15 conditions without necessitating a license; and making other technical changes for
16 clarification or modernization.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.

§30-4-8. License to practice dentistry.

1 (a) The board shall issue a license to practice dentistry to an applicant who meets the
2 following:

3 (1) Is at least 18 years of age;

4 (2) ~~Is of good moral character~~ Does not have any criminal convictions which would bar the
5 applicant's licensure pursuant to §30-1-24 of this code;

6 (3) Is a graduate of and has a diploma from a school accredited by the Commission on
7 Dental Accreditation or equivalently approved dental college, school, or dental department of a
8 university as determined by the board;

9 (4) Has passed a national board examination as given by the Joint Commission on
10 National Dental Examinations and a clinical examination administered by the Commission on
11 Dental Competency Assessments, the Central Regional Dental Testing Service, the Council of
12 Interstate Testing Agencies, the Southern Regional Testing Agency, or the Western Regional
13 Examining Board, or the successor to any of those entities, which demonstrates competency, and
14 passed each individual component with no compensatory scoring in:

15 (A) Endodontics, including access opening of a posterior tooth and access, canal
16 instrumentation, and obturation of an anterior tooth;

17 (B) Fixed prosthodontics, including an anterior crown preparation and two posterior crown
18 preparations involving a fixed partial denture factor;

19 (C) Periodontics, including scaling and root planing ~~in a patient-based clinical setting; and~~

20 (D) Restorative, including a class II amalgam or composite preparation and restoration
21 and a class III composite preparation and restoration, ~~in a patient-based clinical setting; and~~

22 (E) The board may consider clinical examinations taken prior to July 1, 2019, or individual
23 state clinical examinations as equivalent which demonstrates competency.

24 (5) Has not been found guilty of cheating, deception, or fraud in the examination or any
25 part of the application;

26 (6) Has paid the application fee specified by rule; ~~and~~

27 (7) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code:

28 *Provided*, That an applicant in an active recovery process, which may, in the discretion of the
29 board, be evidenced by participation in a 12-step program or other similar group or process, may
30 be considered; and

31 (8) Meets the other requirements specified by rule.

32 (b) A dentist may not represent to the public that he or she is a specialist in any branch of
33 dentistry or limit his or her practice to any branch of dentistry unless first issued a certificate of
34 qualification in that branch of dentistry by the board.

35 (c) A license to practice dentistry issued by the board shall for all purposes be considered
36 a license issued under this section: *Provided*, That a person holding a license shall renew the
37 license.

§30-4-10. License to practice dental hygiene.

1 (a) The board shall issue a dental hygienist license to an applicant who meets the following
2 requirements:

- 3 (1) Is at least 18 years of age;
- 4 (2) ~~Is of good moral character~~ Does not have any criminal convictions which would bar
5 the applicant's licensure pursuant to §30-1-24 of this code;
- 6 (3) Is a graduate with a degree in dental hygiene from an approved dental hygiene
7 program of a college, school, or dental department of a university;
- 8 (4) Has passed a national board examination as given by the Joint Commission on
9 National Dental Examinations and passed a board-approved ~~patient-based~~ examination designed
10 to determine the applicant's level of clinical skills;
- 11 (5) Has not been found guilty of cheating, deception, or fraud in the examination or any
12 part of the application;
- 13 (6) Has paid the application fee specified by rule; ~~and~~
- 14 (7) Is not an alcohol or drug abuser, as those terms are defined in §27-1A-11 of this code:
15 *Provided*, That an applicant in an active recovery process, which may, in the discretion of the
16 board, be evidenced by participation in a 12-step program or other similar group or process, may
17 be considered; and
- 18 (8) Meets the other requirements specified by rule.

19 (b) A dental hygienist license issued by the board and in good standing on the effective
20 date of the amendments to this section shall for all purposes be considered a dental hygienist
21 license issued under this section: *Provided*, That a person holding a dental hygienist license shall
22 renew the license.

§30-4-13. Board authorizations shall be displayed.

23 (a) The board shall prescribe the form for a board authorization, and may issue a duplicate
24 upon payment of a fee.

25 (b) Any person regulated by ~~the~~ this article shall conspicuously display his or her board
26 authorization at his or her principal ~~business location~~ place of practice.

§30-4-15. Special volunteer dentist or dental hygienist license; civil immunity for voluntary services rendered to indigents.

1 (a) There is continued a special volunteer dentist and dental hygienist license for dentists
2 and dental hygienists retired or retiring from the active practice of dentistry and dental hygiene
3 who wish to donate their expertise for the care and treatment of indigent and needy patients in
4 the clinical setting of clinics organized, in whole or in part, for the delivery of health care services
5 without charge. The special volunteer dentist or dental hygienist license shall be issued by the
6 board to a dentist or dental hygienists licensed or otherwise eligible for licensure under this article
7 and the legislative rules promulgated hereunder without the payment of an application fee, license
8 fee or renewal fee, shall be issued for the remainder of the licensing period and renewed
9 consistent with the ~~boards~~ board's other licensing requirements. The board shall develop
10 application forms for the special license provided in this subsection which shall contain the
11 dentist's or dental hygienist's acknowledgment that:

12 (1) The ~~dentist~~ dentist's or dental hygienist's practice under the special volunteer dentist
13 or dental hygienist license will be exclusively devoted to providing dentistry or dental hygiene care
14 to needy and indigent persons in West Virginia;

15 (2) The dentist or dental hygienist will not receive any payment or compensation, either
16 direct or indirect, or have the expectation of any payment or compensation but may donate to the
17 clinic the proceeds of any reimbursement, for any dentistry or dental hygiene services rendered
18 under the special volunteer dentist or dental hygienist license;

19 (3) The dentist or dental hygienist will supply any supporting documentation that the board
20 may reasonably require; and

21 (4) The dentist or dental hygienist agrees to continue to participate in continuing
22 professional education as required by the board for the special volunteer dentist or dental
23 hygienist.

24 (b) Any person engaged in the active practice of dentistry and dental hygiene in this state
25 whose license is in good standing may donate their expertise for the care and treatment of indigent
26 and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the
27 delivery of health care services without charge to the patient. Services rendered pursuant to an
28 arrangement may be performed in either the office of the dentist or dental hygienist or the clinical
29 setting.

30 (c) Any dentist or dental hygienist who renders any dentistry or dental hygiene service to
31 indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care
32 services without charge under a special volunteer dentist or dental hygienist license authorized
33 under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized
34 pursuant to subsection (b) of this section without payment or compensation or the expectation or
35 promise of payment or compensation is immune from liability ~~for~~ in any civil action arising out of
36 any act or omission ~~resulting from the incident to~~ rendering of the dental hygiene service at the
37 clinic unless the act or omission was the result of the dentist's or dental hygienist's gross
38 negligence or willful misconduct. In order for the immunity under this subsection to apply, there
39 shall be a written agreement between the dentist or dental hygienist and the clinic, pursuant to
40 which the dentist or dental hygienist will provide voluntary uncompensated ~~dental hygiene~~

41 services under the control of the clinic to patients of the clinic, ~~before~~ executed prior to the
42 rendering of any services by the dentist or dental hygienist at the clinic: *Provided*, That any clinic
43 entering into such written agreement is required to maintain liability coverage of not less than \$1
44 million per occurrence.

45 (d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in
46 whole or in part, for the delivery of health care services without charge is not relieved from imputed
47 liability for the negligent acts of a dentist or dental hygienist rendering voluntary ~~dental hygiene~~
48 uncompensated services at or for the clinic under a special volunteer dentist or dental hygienist
49 license ~~authorized~~ issued under subsection (a) of this section or who renders such care and
50 treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of
51 this section.

52 (e) For purposes of this section, "otherwise eligible for licensure" means the satisfaction
53 of all the requirements for licensure as listed in section eight of this article and in the legislative
54 rules promulgated thereunder, except the fee requirements of subdivision (6) of said section and
55 of the legislative rules promulgated by the board relating to fees.

56 (f) Nothing in this section may be construed as requiring the board to issue a special
57 volunteer dentist or dental hygienist license to any dentist or dental hygienist whose license is or
58 has been subject to any disciplinary action or to any dentist or dental hygienist who has
59 surrendered a license or caused such license to lapse, expire ~~and~~ or become ~~invalid~~ inactive in
60 lieu of having a complaint initiated or other action taken against his or her ~~dentist or dental~~
61 ~~hygienist license, or who has elected to place a dentist or dental hygienist license in inactive~~
62 ~~status in lieu of having a complaint initiated or other action taken against his or her license, or~~
63 who has been denied a dentist or dental hygienist license.

64 (g) Any policy or contract of liability insurance providing coverage for liability that is sold,
65 issued or delivered in this state to any dentist or dental hygienist covered under the provisions of
66 this article shall be read so as to contain a provision or endorsement whereby the company issuing

67 such policy waives or agrees not to assert as a defense on behalf of the policyholder or any
68 beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the
69 immunity from liability of the insured by reason of the care and treatment of needy and indigent
70 patients by a dentist or dental hygienist who holds a special volunteer dentist or dental hygienist
71 license or who renders such care and treatment pursuant to an arrangement with a clinic as
72 authorized pursuant to subsection (b) of this section.

§30-4-16. Dental corporations and professional limited liability companies.

1 (a) Dental corporations and professional limited liability companies are continued.

2 (b) One or more dentists licensed by the board may organize and become a shareholder
3 or shareholders of a dental corporation, or member or members of a professional limited liability
4 company, domiciled within this state under the terms and conditions and subject to the limitations
5 and restrictions specified by rule.

6 (c) No corporation or professional limited liability company may practice dentistry, or any
7 of its branches, or hold itself out as being capable of doing so without a certificate of authorization
8 from the board.

9 (d) When the Secretary of State receives a certificate of authorization to act as a dental
10 corporation or professional limited liability company from the board, he or she shall attach the
11 authorization to the corporation application and, upon compliance with the applicable provisions
12 of ~~chapter thirty-one~~ Chapter 31 or Chapter 31B of this code, the Secretary of State shall issue to
13 the incorporators a certificate of incorporation for the dental corporation or to the organizers a
14 certificate of organization for the professional limited liability company.

15 (e) A corporation or professional limited liability company holding a certificate of
16 authorization shall renew annually, on or before June 30, on a form prescribed by the board and
17 pay an annual fee in an amount specified by rule.

18 (f) A dental corporation or professional limited liability company may practice dentistry only
19 through ~~an individual dentist or~~ one or more dentists licensed to practice dentistry in this state,
20 but the dentist or dentists may be employees rather than shareholders or members of the
21 corporation or company.

22 (g) A dental corporation holding a certificate of authorization shall cease to engage in the
23 practice of dentistry upon being notified by the board that any of its shareholders is no longer a
24 licensed dentist or when any shares of the corporation have been sold or disposed of to a person
25 who is not a licensed dentist: *Provided*, That the personal representative of a deceased
26 shareholder has a period, not to exceed twenty-four months from the date of the shareholder's
27 death, to dispose of the shares; but nothing contained herein may be construed as affecting the
28 existence of the corporation or its right to continue to operate for all lawful purposes other than
29 the practice of dentistry.

§30-4-17. Reinstatement.

1 (a) A licensee against whom disciplinary action has been taken under the provisions of
2 this article shall be afforded an opportunity to demonstrate the qualifications to resume practice.
3 The application for reinstatement shall be in writing and subject to the procedures specified by
4 the board by rule.

5 (b) A licensee who does not complete annual renewal, as specified herein and by the
6 board by rule, and whose license has lapsed for one year or longer, shall make application for
7 reinstatement as specified by the board by rule.

8 (c) The board, at its discretion and for cause, may require an applicant for reinstatement
9 to undergo a physical and/or mental evaluation, at his or her expense, to determine whether a
10 licensee the applicant is competent to practice ~~or if the licensee is impaired by drugs or alcohol~~
11 dentistry or dental hygiene.

§30-4-19. Complaints; investigations; due process procedure; grounds for disciplinary action.

1 (a) The board may initiate a complaint upon receipt of the quarterly report from the Board
2 of Pharmacy as required by §60A-9-1 *et seq.* of this code or upon receipt of credible information
3 and shall, upon the receipt of a written complaint of any person, cause an investigation to be
4 made to determine whether grounds exist for disciplinary action under this article or the legislative
5 rules promulgated pursuant to this article.

6 (b) After reviewing any information obtained through an investigation, the board shall
7 determine if probable cause exists that the licensee, certificate holder, or permittee has violated
8 §30-4-19(a) ~~(a)~~ (g) of this code or rules promulgated pursuant to this article.

9 (c) Upon a finding of probable cause to go forward with a complaint, the board shall provide
10 a copy of the complaint to the licensee, certificate holder, or permittee.

11 (d) Upon a finding that probable cause exists that the licensee, certificate holder, or
12 permittee has violated §30-4-19(g) of this code or rules promulgated pursuant to this article, the
13 board may enter into a consent decree or hold a hearing for disciplinary action against the
14 licensee, certificate holder, or permittee. Any hearing shall be held in accordance with the
15 provisions of this article and shall require a violation to be proven by a preponderance of the
16 evidence.

17 (e) A member of the complaint committee or the executive director of the board may issue
18 subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the
19 investigation of allegations against any person regulated by ~~the~~ this article.

20 (f) Any member of the board or its executive director may sign a consent decree or other
21 legal document on behalf of the board.

22 (g) The board may, after notice and opportunity for hearing, deny or refuse to renew,
23 suspend, restrict, or revoke the license, certificate, or permit of, or impose probationary conditions

24 upon, or take disciplinary action against, any licensee, certificate holder, or permittee for any of
25 the following reasons:

26 (1) Obtaining a board authorization by fraud, misrepresentation, or concealment of
27 material facts;

28 (2) Being convicted of a felony crime, or being convicted of a misdemeanor crime of ~~moral~~
29 ~~turpitude~~ related to the practice of dentistry or dental hygiene;

30 (3) Being guilty of ~~unprofessional conduct which placed the public at risk, as defined by~~
31 ~~legislative rule of the board~~ malpractice or neglect in the practice of dentistry or dental hygiene;

32 (4) ~~Intentional violation~~ Violation of a lawful order or legislative rule of the board;

33 (5) Having had a board authorization revoked or suspended, other disciplinary action
34 taken, or an application for a board authorization denied by the proper authorities of another
35 jurisdiction;

36 (6) Aiding, ~~or abetting,~~ or supervising the unlicensed practice of dentistry or dental hygiene
37 by an unlicensed person;

38 (7) Engaging in ~~an act~~ conduct, while acting in a professional capacity, which has
39 endangered or is likely to endanger the health, welfare, or safety of the public;

40 (8) Having an incapacity that prevents one ~~a licensee~~ from engaging in the practice of
41 dentistry or dental hygiene, with reasonable skill, competence, and safety to the public;

42 (9) Committing fraud in connection with the practice of dentistry or dental hygiene;

43 (10) Failing to report to the board one's surrender of a license or authorization to practice
44 dentistry or dental hygiene in another jurisdiction while under disciplinary investigation by any of
45 those authorities or bodies for conduct that would constitute grounds for action as defined in this
46 section;

47 (11) Failing to report to the board any adverse judgment, settlement, or award arising from
48 a malpractice claim ~~arising~~ related to conduct that would constitute grounds for action as defined
49 in this section;

50 (12) Being guilty of unprofessional conduct as contained in the American Dental
51 Association principles of ethics and code of professional conduct. The following acts are
52 conclusively presumed to be unprofessional conduct:

53 (A) Being guilty of any fraud or deception;

54 ~~(B) Committing a criminal operation or being convicted of a crime involving moral turpitude;~~

55 ~~(C)~~(B) Abusing alcohol or drugs;

56 ~~(D)~~(C) Violating or improperly disclosing any professional confidence ~~or disclosing any~~
57 ~~professional secret;~~

58 ~~(E) Being grossly immoral;~~

59 (F)(D) Harassing, abusing, intimidating, insulting, degrading, or humiliating a patient
60 physically, verbally, or through another form of communication;

61 (G)(E) Obtaining any fee by fraud or misrepresentation;

62 ~~(H)~~(F) Employing directly or indirectly, or directing or permitting any suspended or
63 unlicensed person ~~so employed~~, to perform operations of any kind or to treat lesions of the human
64 teeth or jaws, or correct malimposed formations thereof;

65 ~~(I)~~(G) Practicing or offering or undertaking to practice dentistry under any firm name or
66 trade name not approved by the board;

67 ~~(J)~~(H) Having a professional connection or association with, or lending his or her name to,
68 another, for the illegal practice of dentistry, or having a professional connection or association
69 with any person, firm, or corporation holding himself or herself, themselves, or itself out in any
70 manner contrary to this article;

71 (K)(I) Making use of any advertising relating to the use of any drug or medicine of unknown
72 formula;

73 ~~(L)~~(J) Advertising to practice dentistry or perform any operation thereunder without
74 causing pain;

75 (M)(K) Advertising professional superiority or the performance of professional services in
76 a superior manner;

77 (N)(L) Advertising to guarantee any dental service;

78 (O)(M) Advertising in any manner that is false or misleading in any material respect; or

79 ~~(P) Soliciting subscriptions from individuals within or without the state for, or advertising~~
80 ~~or offering to individuals within or without the state, a course or instruction or course materials in~~
81 ~~any phase, part, or branch of dentistry or dental hygiene in any journal, newspaper, magazine, or~~
82 ~~dental publication, or by means of radio, television, or United States mail, or in or by any other~~
83 ~~means of contacting individuals: *Provided*, That the provisions of this paragraph may not be~~
84 ~~construed so as to prohibit:~~

85 ~~(i) An individual dentist or dental hygienist from presenting articles pertaining to~~
86 ~~procedures or technique to state or national journals or accepted dental publications; or~~

87 ~~(ii) Educational institutions approved by the board from offering courses or instruction or~~
88 ~~course materials to individual dentists and dental hygienists from within or without the state; or~~

89 (Q)(N) Engaging in any action or conduct which would have warranted the denial of the
90 license.

91 (13) Knowing or suspecting that a licensee is incapable of engaging in the practice of
92 dentistry or dental hygiene, with reasonable skill, competence, and safety to the public, and failing
93 to report any relevant that information to the board;

94 (14) Using or disclosing protected health information in an unauthorized or unlawful
95 manner;

96 (15) Engaging in any conduct that subverts or attempts to subvert any licensing
97 examination or the administration of any licensing examination;

98 (16) Failing to furnish to the board or its representatives any information legally requested
99 by the board or failing to cooperate with or engaging in any conduct which obstructs an
100 investigation being conducted by the board;

101 (17) Announcing or otherwise holding himself or herself out to the public as a specialist or
102 as being specially qualified in any particular branch of dentistry or as giving special attention to
103 any branch of dentistry or as limiting his or her practice to any branch of dentistry without first
104 complying with the requirements established by the board for the specialty and having been
105 issued a certificate of qualification in the specialty by the board;

106 (18) Failing to report to the board within 72 hours of becoming aware of any life threatening
107 occurrence, serious injury, or death of a patient resulting from the licensee's or permittee's dental
108 treatment ~~or complications following a dental procedure~~;

109 (19) Administering sedation anesthesia without a valid permit, or other violation of §30-
110 4A-1 et seq. of this code;

111 (20) Failing to observe or adhere to regulations, standards, or guidelines regarding
112 infection control, disinfection, or sterilization, or otherwise applicable to dental care settings;

113 ~~(19)~~(21) Failing to report to the board any driving under the influence and/or driving while
114 intoxicated offense; or

115 ~~(20)~~(22) Violation of any of the terms or conditions of any order entered in any disciplinary
116 action.

117 ~~(+)~~ (h) For the purposes of §30-4-19(g) of this code, disciplinary action may include:

118 (1) Reprimand;

119 (2) Probation;

120 (3) Restrictions;

121 (4) Suspension;

122 (5) Revocation;

123 (6) Administrative fine, not to exceed \$1,000 per day per violation;

124 (7) Mandatory attendance at continuing education seminars or other training;

125 (8) Practicing under supervision or other restriction; or

126 (9) Requiring the licensee or permittee to report to the board for periodic interviews for a
127 specified period of time.

128 ~~(j)~~ (i) In addition to any other sanction imposed, the board may require a licensee or
129 permittee to pay the board's costs of the proceeding incurred in investigating and adjudicating a
130 disciplinary matter, including the board's legal fees.

131 ~~(k)~~ (j) The board may defer disciplinary action with regard to an impaired licensee or
132 permittee who voluntarily signs an agreement, in a form satisfactory to the board, agreeing not to
133 practice dental care and to enter an approved treatment and monitoring program in accordance
134 with the board's legislative rules: *Provided*, That this subsection does not apply to a licensee or
135 permittee who has been convicted of, pleads guilty to, or enters a plea of nolo contendere to an
136 offense relating to a controlled substance in any jurisdiction.

137 ~~(l)~~ (k) A person authorized to practice under this article who reports or otherwise provides
138 evidence of the negligence, impairment, or incompetence of another member of this profession
139 to the board or to any peer review organization is not liable to any person for making the report if
140 the report is made without actual malice and in the reasonable belief that the report is warranted
141 by the facts known to him or her at the time.

§30-4-20. Procedures for hearing; right of appeal.

1 (a) Hearings are governed by the provisions of ~~section eight, article one of this chapter~~
2 §30-1-8 of this code and the legislative rules promulgated pursuant to this article.

3 (b) The board may conduct the hearing or elect to have an administrative law judge
4 conduct the hearing.

5 (c) If the hearing is conducted by an administrative law judge, at the conclusion of a the
6 hearing he or she shall prepare a proposed written order containing findings of fact and
7 conclusions of law. The proposed order may contain proposed disciplinary actions if the board so
8 directs. The board may accept, reject or modify the decision of the administrative law judge.

9 (d) Any member of the board or the executive director of the board has the authority to
10 administer oaths and to examine any person under oath.

11 (e) If, after a hearing, the board determines the licensee or permittee has violated one or
12 more provisions of this article or the board's rules, a formal written decision shall be prepared
13 which contains findings of fact, conclusions of law, and a specific description of the disciplinary
14 actions imposed.

§30-4-22. Criminal offenses.

1 (a) When, as a result of an investigation under this article or otherwise, the board has
2 reason to believe that a person ~~authorized under this article~~ has committed a criminal offense
3 ~~under~~ in violation of this article, the board may bring its such information to the attention of an
4 appropriate law-enforcement official.

5 (b) ~~Any person who intentionally practices, or holds himself or herself out as qualified to~~
6 ~~practice dentistry or dental hygiene, or uses any title, word or abbreviation to indicate to or induce~~
7 ~~others to believe he or she is licensed to practice as a dentist or dental hygienist without obtaining~~
8 ~~an active, valid West Virginia license to practice that profession or with a license that is:~~

9 ~~(1) Expired, suspended or lapsed; or~~

10 ~~(2) Inactive, revoked, suspended as a result of disciplinary action, or surrendered, is guilty~~
11 ~~of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000.~~

12 Any person who practices dentistry or dental hygiene in this state and (1) has never been
13 licensed by the board under this article, (2) holds a license that has been classified by the board
14 as expired or lapsed, or (3) holds a license that has been inactive, revoked, or suspended as a
15 result of disciplinary action, or surrendered to the board, is guilty of a felony and, upon conviction,
16 shall be fined not more than \$10,000 or imprisoned in a correctional facility for not less than one
17 year nor more than five years, or both fined and imprisoned.

18 (c) Any person who holds himself or herself out as licensed to practice dentistry or dental
19 hygiene in this State, or who uses any title, word, or abbreviation to indicate to or induce others
20 to believe he or she is licensed to practice dentistry or dental hygiene in this State, and (1) has
21 never been licensed by the board under this article, (2) holds a license that has been classified
22 by the board as expired or lapsed, or (3) holds a license that has been inactive, revoked, or
23 suspended as a result of disciplinary action, or surrendered to the board, is guilty of a
24 misdemeanor and, upon conviction, shall be fined not more than \$5,000 or confined in jail not
25 more than twelve months, or both fined and confined.

§30-4-23. Single act evidence of practice.

1 In any action brought under this article, ~~or under article four-a or article four-b~~ §30-4A-1 et
2 seq. or §30-4B-1 et seq. of this code ~~any proceeding initiated under this article,~~ evidence of the
3 commission of a single act prohibited by ~~this~~ said article is sufficient to justify a penalty, injunction,
4 restraining order or conviction without evidence of a general course of conduct.

§30-4-24. Inapplicability of article.

1 The provisions of this article do not apply to:

2 (1) A licensed physician or surgeon in the practice of his or her profession when rendering
3 dental relief in emergency cases, unless he or she undertakes to reproduce or reproduces lost
4 parts of the human teeth or to restore or replace lost or missing teeth in the human mouth;

5 (2) A dental laboratory in the performance of dental laboratory services, while the dental
6 laboratory, in the performance of the work, conforms in all respects to the requirements of article
7 four-b of this chapter, ~~and further does not apply to persons performing dental laboratory services~~
8 ~~under the direct supervision of a licensed dentist or under the direct supervision of a person~~
9 ~~authorized under this article to perform any of the acts in this article defined to constitute the~~
10 ~~practice of dentistry while the work is performed in connection with, and as a part of, the dental~~
11 ~~practice of the licensed dentist or other authorized person and for his or her dental patients;~~

- 12 (3) A student enrolled in an accredited D.D.S. or D.M.D. degree program or an accredited
13 dental hygiene program practicing under the direct supervision of an instructor licensed by the
14 board and (A) within a school, college, or university in this State; (B) in a dental clinic operated by
15 a nonprofit organization providing indigent care; (C) in governmental or indigent care clinics in
16 which the student is assigned to practice during his or her final academic year rotations; or (D) in
17 a private dental office for a limited time during the student's final academic year: *Provided, That*
18 the supervising dentist holds appointment on the faculty of the school in which the student is
19 enrolled; and regularly attending any dental college recognized by the board, provided their acts
20 are done in the dental college and under the direct and personal supervision of their instructor;
21 ~~(4) A student enrolled in and regularly attending any dental college, recognized by the~~
22 ~~board, practicing dentistry in a public health setting, provided their acts are done under the direct~~
23 ~~supervision of their instructor, adjunct instructor or a dentist;~~
24 ~~(5)~~ (4) An authorized dentist of another state temporarily operating a clinic under the
25 auspices of an organized and reputable dental college or reputable dental society, or to one
26 lecturing before a reputable society composed exclusively of dentists; or
27 ~~(6)~~ (5) A dentists whose practice is confined exclusively to the service of the United States
28 Army, the United States Navy, the United States Air Force, The United States Coast Guard, the
29 United States Public Health Service, the United States Veteran's Bureau or any other authorized
30 United States government agency or bureau.

NOTE: The purpose of this bill is to define the practice of dentistry, to add necessary definitions, to revise certain definitions, and to remove unnecessary definitions, to revise and make consistent the requirements for a dental license, dental hygiene license, dental intern permit, dental resident permit, and teaching permit, to revise the scope of practice of dentistry and dental hygiene, to account for the existence of dental professional limited liability companies, to revise the grounds for disciplinary action and the availability of certain disciplinary sanctions, to revise the criminal offenses related to dentistry, to clarify who is exempt from this article, to add the statutorily required provisions regarding telehealth services, and to correct typographical and grammatical errors where necessary and use plain language where appropriate.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.