

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 574

By: Jolley of the Senate

3 and

4 Trebilcock of the House
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8 An Act relating to the practice of dentistry;
9 amending 59 O.S. 2001, Sections 328.27, as amended by
10 Section 3, Chapter 377, O.S.L. 2005, 328.32, 328.36a,
11 and 328.44a, as last amended by Section 6, Chapter
12 377, O.S.L. 2005 (59 O.S. Supp. 2010, Sections 328.27
and 328.44a), which relate to the State Dental Act;
13 requiring faculty permit holders to show certain
14 proof; # # # providing for codification; and
15 providing an effective date.

16 AUTHORS: Add the following House Coauthors: Derby, Cox, Joyner,
17 Blackwell, Peterson and Ritze

18 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
19 and insert

20 "An Act relating to the practice of dentistry;
21 amending 59 O.S. 2001, Sections 328.15, as last
22 amended by Section 16, Chapter 413, O.S.L. 2010,
23 328.27, as amended by Section 3, Chapter 377, O.S.L.
24 2005, 328.32, 328.36a and 328.44a, as last amended
by Section 6, Chapter 377, O.S.L. 2005 (59 O.S.
Supp. 2010, Sections 328.15, 328.27 and 328.44a),
which relate to the State Dental Act; modifying
certain powers of Board of Dentistry; requiring
faculty permit holders to show certain proof;
modifying list of acts by a dentist which constitute

1 grounds for penalties by Board; modifying
2 requirements of laboratory prescriptions issued by a
3 dentist; requiring Board to make certain forms
4 readily available; permitting dentists to produce,
5 transfer and retain certain copies electronically;
6 permitting Board to collect certain fees; amending
7 59 O.S. 2001, Section 738.1, which relates to
8 injunctions; adding certain boards that may be
9 granted injunctions without bonds; providing duties
10 of Board investigators; providing for possession of
11 sidearm and badge upon retirement; requiring
12 professional liability insurance for dentists;
13 providing for exceptions; permitting the Board to
14 promulgate certain rules; amending 47 O.S. 2001,
15 Section 2-300, as last amended by Section 8, Chapter
16 437, O.S.L. 2010 (47 O.S. Supp. 2010, Section 2-
17 300), which relates to definitions; modifying
18 certain definition; providing for codification;
19 providing an effective date; and declaring an
20 emergency.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. AMENDATORY 59 O.S. 2001, Section 328.15, as
23 last amended by Section 16, Chapter 413, O.S.L. 2010 (59 O.S. Supp.
24 2010, Section 328.15), is amended to read as follows:

Section 328.15 A. Pursuant to and in compliance with Article I
of the Administrative Procedures Act, the Board of Dentistry shall
have the power to formulate, adopt, and promulgate rules as may be
necessary to regulate the practice of dentistry in this state and to
implement and enforce the provisions of the State Dental Act.

B. The Board is authorized and empowered to:

1. Examine and test the qualifications of applicants for a
license or permit to be issued by the Board;

1 2. Affiliate by contract or cooperative agreement with another
2 state or combination of states for the purpose of conducting
3 simultaneous regional examinations of applicants for a license to
4 practice dentistry, dental hygiene, or a dental specialty;

5 3. Maintain a list of the name, current mailing address and
6 principal office address of all persons who hold a license or permit
7 issued by the Board;

8 4. Account for all receipts and expenditures of the monies of
9 the Board, including annually preparing and publishing a statement
10 of receipts and expenditures of the Board for each fiscal year;

11 5. Within limits prescribed in the State Dental Act, set all
12 fees and administrative penalties to be imposed and collected by the
13 Board;

14 6. Maintain an office staff and employ legal counsel and other
15 advisors to the Board, including advisory committees;

16 7. Investigate and issue investigative and other subpoenas,
17 pursuant to Article II of the Administrative Procedures Act;

18 8. Initiate individual proceedings and issue orders imposing
19 administrative penalties, pursuant to Article II of the
20 Administrative Procedures Act, against any dentist, dental
21 hygienist, dental assistant, dental laboratory technician, or holder
22 of a permit to operate a dental laboratory who has violated the
23 State Dental Act or the rules of the Board;

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1 9. Conduct, in a uniform and reasonable manner, inspections of
2 dental offices and dental laboratories and their business records;

3 10. Establish guidelines for courses of study necessary for
4 expanded duties of dental assistants and, when appropriate, issue
5 permits authorizing dental assistants to perform expanded duties;

6 11. Establish continuing education requirements for dentists,
7 dental hygienists, and dental assistants who hold expanded duty
8 permits issued by the Board;

9 12. Recognize the parameters of care established and approved
10 by the American Dental Association;

11 13. Formulate, adopt, and promulgate rules, pursuant to Article
12 I of the Administrative Procedures Act, as may be necessary to
13 implement and enforce the provisions of the Oklahoma Dental
14 Mediation Act;

15 14. Hire one or more investigators to conduct investigations of
16 alleged violations of the State Dental Act or the rules of the
17 Board. The investigator may be a certified peace officer who shall
18 be commissioned with all the powers and authority of peace officers
19 of this state;

20 15. Seek and receive advice and assistance of the Office of the
21 Attorney General of this state;

22 16. Promote the dental health of the people of this state;
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1 17. Inform, educate, and advise all persons who hold a license
2 or permit issued by the Board, or who are otherwise regulated by the
3 Board, regarding the State Dental Act and the rules of the Board;

4 18. Affiliate with the American Association of Dental Examiners
5 as an active member, pay regular dues, and send members of the Board
6 as delegates to its meetings;

7 19. Enter into contracts;

8 20. Acquire, ~~rent~~ by purchase, lease, gift, solicitation of
9 gift or by any other manner, hold, encumber, and dispose of personal
10 property as is needed, maintain, use and operate or contract for the
11 maintenance, use and operation of or lease of any and all property
12 of any kind, real, personal or mixed or any interest therein unless
13 otherwise provided by the State Dental Act; provided, all contracts
14 for real property shall be subject to the provisions of Section 63
15 of Title 74 of the Oklahoma Statutes.

16 21. Receive or accept the surrender of a license, permit, or
17 certificate granted to any person by the Board as provided in
18 Section 328.44a of this title; and

19 22. Take all other actions necessary to implement and enforce
20 the State Dental Act.

21 SECTION 2. AMENDATORY 59 O.S. 2001, Section 328.27, as
22 amended by Section 3, Chapter 377, O.S.L. 2005 (59 O.S. Supp. 2010,
23 Section 328.27), is amended to read as follows:

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1 Section 328.27 A. 1. The Board of Dentistry may, without a
2 clinical examination, upon presentation of satisfactory credentials,
3 including completion of the dental hygiene National Boards and both
4 Part I and Part II of the National Board examination for dentists,
5 and under such rules as the Board may promulgate, issue a faculty
6 permit to an applicant who:

7 a. is a graduate of a school of dentistry approved by the
8 Board and is licensed to practice dentistry in another
9 state or country,

10 b. successfully completes advanced training in a
11 specialty approved by the Commission on Dental
12 Accreditation of the American Dental Association, or

13 c. is a graduate of an accredited dental hygiene program
14 and is licensed to practice dental hygiene in another
15 state.

16 2. A faculty permit shall be issued only upon the certification
17 of the dean of an accredited dental college or the director of an
18 accredited dental hygiene program located in this state that the
19 applicant is a bona fide member of the teaching staff of that
20 college or program.

21 3. Following the first year of employment, the faculty permit
22 holder shall show proof of passing an appropriate clinical board
23 examination recognized by the Board of Dentistry.

1 4. A faculty permit shall be valid for one (1) year and may be
2 renewed by the Board at the written request of the dean of an
3 accredited dental program or the director of an accredited dental
4 hygiene program.

5 B. The holder of a faculty permit shall be entitled to perform
6 services and procedures in the same manner as a person holding a
7 license to practice dentistry or dental hygiene in this state, but
8 all services and procedures performed by the faculty permit holder
9 shall only be without compensation other than that received in
10 salary from a faculty position or through faculty practice as
11 authorized by the Board. Such services and procedures shall be
12 performed only within the facilities of an accredited dental college
13 or accredited dental hygiene program or in a seminar or postgraduate
14 course and as an adjunct to teaching functions. A holder of a
15 faculty permit shall only engage in faculty practice of dentistry or
16 dental hygiene within the facilities designated by the accredited
17 dental college and including teaching hospitals approved by the
18 Board.

19 SECTION 3. AMENDATORY 59 O.S. 2001, Section 328.32, is
20 amended to read as follows:

21 Section 328.32 A. The following acts or occurrences by a
22 dentist shall constitute grounds for which the penalties specified
23 in Section 328.44a of this title may be imposed by order of the
24 Board of Dentistry:

- 1 1. Pleading guilty or nolo contendere to, or being convicted
2 of, a felony, a misdemeanor involving moral turpitude, or a
3 violation of federal or state controlled dangerous substances laws;
- 4 2. Presenting to the Board a false diploma, license, or
5 certificate, or one obtained by fraud or illegal means;
- 6 3. Being, by reason of persistent inebriety or addiction to
7 drugs, incompetent to continue the practice of dentistry;
- 8 4. Publishing a false, fraudulent, or misleading advertisement
9 or statement;
- 10 5. Authorizing or aiding an unlicensed person to practice
11 dentistry, to practice dental hygiene, or to perform a function for
12 which a permit from the Board is required;
- 13 6. Authorizing or aiding a dental hygienist to perform any
14 procedure prohibited by the State Dental Act or the rules of the
15 Board;
- 16 7. Authorizing or aiding a dental assistant to perform any
17 procedure prohibited by the State Dental Act or the rules of the
18 Board;
- 19 8. Failing to pay fees as required by the State Dental Act or
20 the rules of the Board;
- 21 9. Failing to complete continuing education requirements;
- 22 10. Representing himself or herself to the public as a
23 specialist in a dental specialty without holding a dental specialty
24 license therefor;

- 1 11. Representing himself or herself to the public as a
2 specialist whose practice is limited to a dental specialty, when
3 such representation is false, fraudulent, or misleading;
- 4 12. Endangering the health of patients by reason of having a
5 highly communicable disease and continuing to practice dentistry
6 without taking appropriate safeguards;
- 7 13. Being a menace to the public health by reasons of
8 practicing dentistry in an unsafe or unsanitary manner or place;
- 9 14. Being shown to be mentally unsound;
- 10 15. Being shown to be grossly immoral and that such condition
11 represents a threat to patient care or treatment;
- 12 16. Being incompetent to practice dentistry while delivering
13 care to a patient;
- 14 17. Committing gross negligence in the practice of dentistry;
- 15 18. Committing repeated acts of negligence in the practice of
16 dentistry;
- 17 19. Offering to effect or effecting a division of fees, or
18 agreeing to split or divide a fee for dental services with any
19 person, in exchange for the person bringing or referring a patient;
- 20 20. Being involuntarily committed to an institution for
21 treatment for substance abuse, until recovery or remission;
- 22 21. Using or attempting to use the services of a dental
23 laboratory or dental laboratory technician without issuing a
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1 laboratory prescription, except as provided in subsection C of
2 Section 328.36 of this title;

3 22. Aiding, abetting, or encouraging a dental hygienist
4 employed by the dentist to make use of an oral prophylaxis list, or
5 the calling by telephone or by use of letters transmitted through
6 the mails to solicit patronage from patients formerly served in the
7 office of any dentist formerly employing such hygienist;

8 23. Having more than the equivalent of two full-time dental
9 hygienists for each dentist actively practicing in the same dental
10 office who will supervise the dental hygienists;

11 24. Knowingly patronizing or using the services of a dental
12 laboratory or dental laboratory technician who has not complied with
13 the provisions of the State Dental Act and the rules of the Board;

14 25. Authorizing or aiding a dental hygienist, dental assistant,
15 dental laboratory technician, or holder of a permit to operate a
16 dental laboratory to violate any provision of the State Dental Act
17 or the rules of the Board;

18 26. Willfully disclosing confidential information;

19 27. Writing a false, unnecessary, or excessive prescription for
20 any drug or narcotic which is a controlled dangerous substance under
21 either federal or state law;

22 28. Prescribing or administering any drug or treatment without
23 having established a valid dentist-patient relationship;

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1 29. Engaging in nonconsensual physical contact with a patient
2 which is sexual in nature, or engaging in a verbal communication
3 which is intended to be sexually demeaning to a patient;

4 30. Practicing dentistry without displaying, at the dentist's
5 primary place of practice, the license issued to the dentist by the
6 Board to practice dentistry and the current renewal certificate;

7 31. Being dishonest in a material way with a patient;

8 32. Failing to retain all patient records for at least three
9 (3) years, except that the failure to retain records shall not be a
10 violation of the State Dental Act if the dentist shows that the
11 records were lost, destroyed, or removed by another, without the
12 consent of the dentist;

13 33. Failing to retain the dentist's copy of any laboratory
14 prescription for at least three (3) years, except that the failure
15 to retain records shall not be a violation of the State Dental Act
16 if the dentist shows that the records were lost, destroyed, or
17 removed by another, without the consent of the dentist;

18 34. Allowing any corporation, organization, group, person, or
19 other legal entity, except another dentist or a professional entity
20 that is in compliance with the registration requirements of
21 subsection B of Section 328.31 of this title, to direct, control, or
22 interfere with the dentist's clinical judgment. Clinical judgment
23 shall include, but not be limited to, such matters as selection of a
24 course of treatment, control of patient records, policies and

1 decisions relating to pricing, credit, refunds, warranties and
2 advertising, and decisions relating to office personnel and hours of
3 practice. Nothing in this paragraph shall be construed to:

- 4 a. limit a patient's right of informed consent, or
- 5 b. to prohibit insurers, preferred provider organizations
6 and managed care plans from operating pursuant to the
7 applicable provisions of the Oklahoma Insurance Code
8 and the Public Health Code;

9 35. Violating the state dental act of another state resulting
10 in a plea of guilty or nolo contendere, conviction or suspension or
11 revocation of the license of the dentist under the laws of that
12 state;

13 36. Violating or attempting to violate the provisions of the
14 State Dental Act or the rules of the Board, as a principal,
15 accessory or accomplice; ~~or~~

16 37. Failing to comply with the terms and conditions of an order
17 imposing suspension of a license or placement on probation issued
18 pursuant to Section 328.44a of this title; or

19 38. Failing to cooperate during an investigation or providing
20 false information, verbally or in writing, to the Board, the Board's
21 investigator or an agent of the Board.

22 B. The provisions of the State Dental Act shall not be
23 construed to prohibit any dentist from displaying or otherwise
24 advertising that the dentist is also currently licensed, registered,

1 certified, or otherwise credentialed pursuant to the laws of this
2 state or a nationally recognized credentialing board, if authorized
3 by the laws of the state or credentialing board to display or
4 otherwise advertise as a licensed, registered, certified, or
5 credentialed dentist.

6 SECTION 4. AMENDATORY 59 O.S. 2001, Section 328.36a, is
7 amended to read as follows:

8 Section 328.36a A. A dentist may utilize a dental laboratory
9 technician and a dental laboratory to perform or provide dental
10 laboratory technology. Except as provided in subsection C of
11 Section 328.36 of this title, a dentist who utilizes the services of
12 a dental laboratory technician or dental laboratory shall furnish a
13 laboratory prescription for each patient for whom a work product is
14 prescribed.

15 B. Laboratory prescriptions issued by a dentist shall be ~~in~~
16 ~~duplicate on consecutively numbered forms approved by the Board of~~
17 ~~Dentistry and~~ containing the minimum information required by
18 subsection D of this section and shall be produced or printed by
19 each dentist. Such forms shall be provided by the Board of
20 Dentistry or downloaded from the Board's website. All forms shall
21 be completed in full and signed by the prescribing dentist. The
22 owner of a dental laboratory shall retain each original laboratory
23 prescription received from a prescribing dentist and produce the
24 document for inspection and copying by a member of the Board or by

1 an agent or employee of the Board, for a period of three (3) years
2 from the date of the laboratory prescription. The prescribing
3 dentist shall retain the duplicate copy of each laboratory
4 prescription and produce the document for inspection and copying by
5 a member of the Board or by an agent or employee of the Board, for a
6 period of three (3) years from the date of the laboratory
7 prescription.

8 C. The patient's name or the identification number of the
9 laboratory prescription shall appear on all dental models and
10 correspond to all dental restorations, appliances or other devices
11 being constructed, reproduced or repaired. Any dental model,
12 restoration, appliance or other device in the possession of a dental
13 laboratory technician or dental laboratory without a laboratory
14 prescription and corresponding number on the model, restoration,
15 appliance or device shall be prima facie evidence of a violation of
16 the State Dental Act. After completion, the prescribed work product
17 shall be returned by the dental laboratory technician or dental
18 laboratory to the prescribing dentist or the dental office of the
19 dentist with the name or number of the laboratory prescription
20 accompanying the invoice.

21 D. At a minimum, prescriptions shall contain the following
22 information:

23 1. The name and address of the dental laboratory;
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1 2. The patient's name and/or identifying number. In the event
2 such identifying number is used, the name of the patient shall be
3 written on a copy of the prescription retained by the dentist;

4 3. A description of the work to be completed with diagrams, if
5 applicable;

6 4. A description of the type of materials to be used;

7 5. The actual date on which the authorization or prescription
8 was written or completed;

9 6. The signature in ink or by electronic method of the dentist
10 issuing the prescription and the state license number and address of
11 such dentist; and

12 7. A section to be completed by the dental laboratory and
13 returned to the issuing dentist that shall disclose all information
14 and certify that the information is accurate by including the
15 signature of a reasonable part of the primary contractor.

16 E. The Board shall make readily available a sample form on the
17 Board's website for use by any licensee at no cost.

18 F. A dentist may produce, transfer and retain copies of the
19 form electronically.

20 SECTION 5. AMENDATORY 59 O.S. 2001, Section 328.44a, as
21 last amended by Section 6, Chapter 377, O.S.L. 2005 (59 O.S. Supp.
22 2010, Section 328.44a), is amended to read as follows:

23 Section 328.44a A. The Board of Dentistry is authorized, after
24 notice and opportunity for a hearing pursuant to Article II of the

1 Administrative Procedures Act, to issue an order imposing one or
2 more of the following penalties whenever the Board finds, by clear
3 and convincing evidence, that a dentist, dental hygienist, dental
4 assistant, dental laboratory technician, or holder of a permit to
5 operate a dental laboratory has committed any of the acts or
6 occurrences set forth in Sections 328.29, 328.32, 328.33, 328.39 and
7 328.39a of this title:

8 1. Refusal to issue a license or permit, or a renewal thereof,
9 provided for in the State Dental Act;

10 2. Suspension of a license or permit issued by the Board for a
11 period of time deemed appropriate by the Board;

12 3. Revocation of a license or permit issued by the Board;

13 4. Imposition of an administrative penalty not to exceed One
14 Thousand Five Hundred Dollars (\$1,500.00) per violation;

15 5. Issuance of a censure;

16 6. Placement on probation for a period of time and under such
17 terms and conditions as deemed appropriate by the Board;

18 7. Probation monitoring fees, which shall be the responsibility
19 of the licensee on all probations;

20 8. Restriction of the services that can be provided by a
21 dentist or dental hygienist, under such terms and conditions as
22 deemed appropriate by the Board; or

23 ~~8.~~ 9. Assessment for the cost of the investigation and hearing
24 process including attorney fees.

1 B. A dentist, dental hygienist, dental assistant, dental
2 laboratory technician, or holder of a permit to operate a dental
3 laboratory, against whom a penalty is imposed by an order of the
4 Board pursuant to the provisions of this section, shall have the
5 right to seek a judicial review of such order pursuant to Article II
6 of the Administrative Procedures Act.

7 SECTION 6. AMENDATORY 59 O.S. 2001, Section 738.1, is
8 amended to read as follows:

9 Section 738.1 Injunctions, without bond, may be granted by
10 district courts to the Board of Podiatric Medical Examiners, the
11 Board of Chiropractic Examiners, the State Board of Medical
12 Licensure and Supervision, the Board of Examiners in Optometry, the
13 Board of Pharmacy, the Board of Dentistry, the Board of Veterinary
14 Medical Examiners or the State Board of Osteopathic Examiners, for
15 the purpose of enforcing the respective acts and laws creating and
16 establishing these boards.

17 SECTION 7. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 328.15A of Title 59, unless
19 there is created a duplication in numbering, reads as follows:

20 A. Investigators for the Board shall be authorized to:

21 1. Perform such services as are necessary in the investigation
22 of criminal activity or preparation of administrative actions; and
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1 2. Investigate and inspect records of all licenses in order to
2 determine whether licensees are in compliance with applicable
3 narcotics and dangerous drug laws and regulations.

4 B. Board investigators certified as peace officers by the
5 Council on Law Enforcement Education and Training shall have
6 statewide jurisdiction to perform the duties authorized by
7 subsection A of this subsection. Such investigators shall have the
8 powers now or hereafter vested in law to peace officers.

9 C. Upon retirement, a Board investigator shall be entitled to
10 receive the continued custody and possession of the sidearm and
11 badge he or she carried immediately prior to retirement.

12 SECTION 8. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 328.53 of Title 59, unless there
14 is created a duplication in numbering, reads as follows:

15 A. All dentists in active practice licensed by the Board of
16 Dentistry shall maintain a policy for professional liability
17 insurance; provided, however, that such requirement shall not apply
18 to dentists:

19 1. Covered by a group or hospital malpractice insurance policy;

20 2. Practicing in a state facility subject to The Governmental
21 Tort Claims Act, Section 151 et seq. of Title 51 of the Oklahoma
22 Statutes;

23 3. Practicing in a federal facility subject to the Federal Tort
24 Claims Act; or

1 4. Providing care as a volunteer under a special volunteer
2 license pursuant to Section 328.23a of Title 59 of the Oklahoma
3 Statutes.

4 B. The Board of Dentistry may promulgate rules as necessary to
5 carry out the provisions of this section, including, but not limited
6 to, minimum requirements for professional liability insurance
7 policies and penalties for noncompliance.

8 SECTION 9. AMENDATORY 47 O.S. 2001, Section 2-300, as
9 last amended by Section 8, Chapter 437, O.S.L. 2010 (47 O.S. Supp.
10 2010, Section 2-300), is amended to read as follows:

11 Section 2-300. As used in Section 2-300 et seq. of this title:

12 1. "System" means the Oklahoma Law Enforcement Retirement
13 System;

14 2. "Act" means Section 2-300 et seq. of this title;

15 3. "Board" means the Oklahoma Law Enforcement Retirement Board
16 of the System;

17 4. "Executive Director" means the managing officer of the
18 System employed by the Board;

19 5. "Fund" means the Oklahoma Law Enforcement Retirement Fund;

20 6. a. "Member" means:

21 (1) all commissioned law enforcement officers of the
22 Oklahoma Highway Patrol Division of the
23 Department of Public Safety who have obtained
24 certification from the Council on Law Enforcement

1 Education and Training, and all cadets of a
2 Patrol Academy of the Department of Public
3 Safety,

4 (2) law enforcement officers and criminalists of the
5 Oklahoma State Bureau of Investigation,

6 (3) law enforcement officers of the Oklahoma State
7 Bureau of Narcotics and Dangerous Drugs Control
8 designated to perform duties in the investigation
9 and prevention of crime and the enforcement of
10 the criminal laws of this state,

11 (4) law enforcement officers of the Oklahoma
12 Alcoholic Beverage Laws Enforcement Commission
13 designated to perform duties in the investigation
14 and prevention of crime and the enforcement of
15 the criminal laws of this state,

16 (5) employees of the Communications Section of the
17 Oklahoma Highway Patrol Division, radio
18 technicians, and tower technicians of the
19 Department of Public Safety, who are employed in
20 any such capacity as of June 30, 2008, and who
21 remain employed on or after July 1, 2008, until a
22 termination of service, or until a termination of
23 service with an election of a vested benefit from
24 the System, or until retirement. Effective July

1 1, 2008, a person employed for the first time as
2 an employee of the Department of Public Safety in
3 the Communications Division as an information
4 systems telecommunication technician of the
5 Department of Public Safety shall not be a member
6 of the System,

7 (6) park rangers of the Oklahoma Tourism and
8 Recreation Department and any park manager or
9 park supervisor of the Oklahoma Tourism and
10 Recreation Department who was employed in such a
11 position prior to July 1, 1985, and who elects on
12 or before September 1, 1996, to participate in
13 the System, and

14 (7) inspectors of the Board of Pharmacy and
15 investigators of the Board of Dentistry.

16 b. Effective July 1, 1987, a member does not include a
17 "leased employee" as defined under Section 414(n)(2)
18 of the Internal Revenue Code of 1986, as amended.
19 Effective July 1, 1999, any individual who agrees with
20 the participating employer that the individual's
21 services are to be performed as a leased employee or
22 an independent contractor shall not be a member
23 regardless of any classification as a common-law
24 employee by the Internal Revenue Service or any other

1 governmental agency, or any court of competent
2 jurisdiction.

3 c. All persons who shall be offered a position of a
4 commissioned law enforcement officer as an employee of
5 one of the agencies described in subparagraph a of
6 this paragraph shall participate in the System upon
7 the person meeting the requisite post-offer-pre-
8 employment physical examination standards which shall
9 be subject to the following requirements:

10 (1) all such persons shall be of good moral
11 character, free from deformities, mental or
12 physical conditions, or disease and alcohol or
13 drug addiction which would prohibit the person
14 from performing the duties of a law enforcement
15 officer,

16 (2) said physical-medical examination shall pertain
17 to age, sight, hearing, agility and other
18 conditions the requirements of which shall be
19 established by the Board,

20 (3) the person shall be required to meet the
21 conditions of this subsection prior to the
22 beginning of actual employment but after an offer
23 of employment has been tendered by a
24 participating employer,

1 (4) the Board shall have authority to deny or revoke
2 membership of any person submitting false
3 information in such person's membership
4 application, and

5 (5) the Board shall have final authority in
6 determining eligibility for membership in the
7 System, pursuant to the provisions of this
8 subsection;

9 7. "Normal retirement date" means the date at which the member
10 is eligible to receive the unreduced payments of the member's
11 accrued retirement benefit. Such date shall be the first day of the
12 month coinciding with or following the date the member:

- 13 a. completes twenty (20) years of vesting service, or
- 14 b. attains sixty-two (62) years of age with ten (10)
15 years of vesting service, or
- 16 c. attains sixty-two (62) years of age, if:

17 (1) the member has been transferred to this System
18 from the Oklahoma Public Employees Retirement
19 System on or after July 1, 1981, and

20 (2) the member would have been vested had the member
21 continued to be a member of the Oklahoma Public
22 Employees Retirement System.

23 With respect to distributions under the System made for calendar
24 years beginning on or after January 1, 2005, the System shall apply

1 the minimum distribution incidental benefit requirements, incidental
2 benefit requirements, and minimum distribution requirements of
3 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
4 in accordance with the final regulations under Section 401(a)(9) of
5 the Internal Revenue Code of 1986, as amended, which were issued in
6 April 2002 and June 2004, notwithstanding any provision of the
7 System to the contrary. With respect to distributions under the
8 System made for calendar years beginning on or after January 1,
9 2001, through December 31, 2004, the System shall apply the minimum
10 distribution requirements and incidental benefit requirements of
11 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
12 in accordance with the regulations under Section 401(a)(9) of the
13 Internal Revenue Code of 1986, as amended, which were proposed in
14 January 2001, notwithstanding any provision of the System to the
15 contrary.

16 Effective July 1, 1989, notwithstanding any other provision
17 contained herein to the contrary, in no event shall commencement of
18 distribution of the accrued retirement benefit of a member be
19 delayed beyond April 1 of the calendar year following the later of:
20 (1) the calendar year in which the member reaches seventy and one-
21 half (70 1/2) years of age; or (2) the actual retirement date of the
22 member. The preceding sentence does not allow deferral of benefit
23 commencement beyond the age of sixty-five (65).

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1 A member who was required to join the System effective July 1,
2 1980, because of the transfer of the employing agency from the
3 Oklahoma Public Employees Retirement System to the System, and was
4 not a member of the Oklahoma Public Employees Retirement System on
5 the date of such transfer shall be allowed to receive credit for
6 prior law enforcement service rendered to this state, if the member
7 is not receiving or eligible to receive retirement credit or
8 benefits for such service in any other public retirement system,
9 upon payment to the System of the employee contribution the member
10 would have been subject to had the member been a member of the
11 System at the time, plus five percent (5%) interest. Service credit
12 received pursuant to this paragraph shall be used in determining the
13 member's retirement benefit, and shall be used in determining years
14 of service for retirement or vesting purposes;

15 8. "Actual paid base salary" means the salary received by a
16 member, excluding payment for any accumulated leave or uniform
17 allowance. Salary shall include any amount of nonelective salary
18 reduction under Section 414(h) of the Internal Revenue Code of 1986;

19 9. "Final average salary" means the average of the highest
20 thirty (30) consecutive complete months of actual paid gross salary.
21 Gross salary shall include any amount of elective salary reduction
22 under Section 457 of the Internal Revenue Code of 1986, as amended,
23 and any amount of nonelective salary reduction under Section 414(h)
24 of the Internal Revenue Code of 1986, as amended. Effective July 1,

1 1992, gross salary shall include any amount of elective salary
2 reduction under Section 125 of the Internal Revenue Code of 1986, as
3 amended. Effective July 1, 1998, gross salary shall include any
4 amount of elective salary reduction not includable in the gross
5 income of the member under Section 132(f)(4) of the Internal Revenue
6 Code of 1986, as amended. Effective July 1, 1998, for purposes of
7 determining a member's compensation, any contribution by the member
8 to reduce his or her regular cash remuneration under Section
9 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be
10 treated as if the member did not make such an election. Only salary
11 on which required contributions have been made may be used in
12 computing the final average salary. Gross salary shall not include
13 severance pay.

14 In addition to other applicable limitations, and notwithstanding
15 any other provision to the contrary, for plan years beginning on or
16 after July 1, 2002, the annual gross salary of each "Noneligible
17 Member" taken into account under the System shall not exceed the
18 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")
19 annual salary limit. The EGTRRA annual salary limit is Two Hundred
20 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for
21 increases in the cost of living in accordance with Section
22 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The
23 annual salary limit in effect for a calendar year applies to any
24 period, not exceeding twelve (12) months, over which salary is

1 determined ("determination period") beginning in such calendar year.
2 If a determination period consists of fewer than twelve (12) months,
3 the EGTRRA salary limit will be multiplied by a fraction, the
4 numerator of which is the number of months in the determination
5 period, and the denominator of which is twelve (12). For purposes
6 of this section, a "Noneligible Member" is any member who first
7 became a member during a plan year commencing on or after July 1,
8 1996.

9 For plan years beginning on or after July 1, 2002, any reference
10 in the System to the annual salary limit under Section 401(a)(17) of
11 the Internal Revenue Code of 1986, as amended, shall mean the EGTRRA
12 salary limit set forth in this provision.

13 Effective January 1, 2008, gross salary for a plan year shall
14 also include gross salary, as described above, for services, but
15 paid by the later of two and one-half (2 1/2) months after a
16 member's severance from employment or the end of the calendar year
17 that includes the date the member terminated employment, if it is a
18 payment that, absent a severance from employment, would have been
19 paid to the member while the member continued in employment with the
20 employer.

21 Effective January 1, 2008, any payments not described above
22 shall not be considered gross salary if paid after severance from
23 employment, even if they are paid by the later of two and one-half
24 (2 1/2) months after the date of severance from employment or the

1 end of the calendar year that includes the date of severance from
2 employment, except payments to an individual who does not currently
3 perform services for the employer by reason of qualified military
4 service within the meaning of Section 414(u) (5) of the Internal
5 Revenue Code of 1986, as amended, to the extent these payments do
6 not exceed the amounts the individual would have received if the
7 individual had continued to perform services for the employer rather
8 than entering qualified military service.

9 Effective January 1, 2008, back pay, within the meaning of
10 Section 1.415(c)-2(g) (8) of the Income Tax Regulations, shall be
11 treated as gross salary for the limitation year to which the back
12 pay relates to the extent the back pay represents wages and
13 compensation that would otherwise be included in this definition.

14 Effective for years beginning after December 31, 2008, gross
15 salary shall also include differential wage payments under Section
16 414(u) (12) of the Internal Revenue Code of 1986, as amended;

17 10. "Credited service" means the period of service used to
18 determine the amount of benefits payable to a member. Credited
19 service shall consist of the period during which the member
20 participated in the System or the predecessor Plan as an active
21 employee in an eligible membership classification, plus any service
22 prior to the establishment of the predecessor Plan which was
23 credited under the predecessor Plan and for law enforcement officers
24 and criminalists of the Oklahoma State Bureau of Investigation and

1 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
2 who became members of the System on July 1, 1980, any service
3 credited under the Oklahoma Public Employees Retirement System as of
4 June 30, 1980, and for members of the Communications and Lake Patrol
5 Divisions of the Oklahoma Department of Public Safety, who became
6 members of the System on July 1, 1981, any service credited under
7 the predecessor Plan or the Oklahoma Public Employees Retirement
8 System as of June 30, 1981, and for law enforcement officers of the
9 Alcoholic Beverage Laws Enforcement Commission who became members of
10 the System on July 1, 1982, any service credited under the Oklahoma
11 Public Employees Retirement System as of June 30, 1982, and for park
12 rangers of the Oklahoma Tourism and Recreation Department who became
13 members of the System on July 1, 1985, any service credited under
14 the Oklahoma Public Employees Retirement System as of June 30, 1985,
15 and for inspectors of the Oklahoma State Board of Pharmacy who
16 became members of the System on July 1, 1986, any service credited
17 under the Oklahoma Public Employees Retirement System as of June 30,
18 1986, for law enforcement officers of the Oklahoma Capitol Patrol
19 Division of the Department of Public Safety who became members of
20 the System effective July 1, 1993, any service credited under the
21 Oklahoma Public Employees Retirement System as of June 30, 1993, and
22 for all commissioned officers in the Gunsmith/Ammunition Reloader
23 Division of the Department of Public Safety who became members of
24 the System effective July 1, 1994, any service credited under the

1 Oklahoma Public Employees Retirement System as of June 30, 1994, and
2 for the park managers or park supervisors of the Oklahoma Tourism
3 and Recreation Department who were employed in such a position prior
4 to July 1, 1985, and who elect to become members of the System
5 effective September 1, 1996, any service transferred pursuant to
6 subsection C of Section 2-309.6 of this title and any service
7 purchased pursuant to subsection B of Section 2-307.2 of this title.
8 Effective August 5, 1993, an authorized leave of absence shall
9 include a period of absence pursuant to the Family and Medical Leave
10 Act of 1993;

11 11. "Disability" means a physical or mental condition which, in
12 the judgment of the Board, totally and presumably permanently
13 prevents the member from engaging in the usual and customary duties
14 of the occupation of the member and thereafter prevents the member
15 from performing the duties of any occupation or service for which
16 the member is qualified by reason of training, education or
17 experience. A person is not under a disability when capable of
18 performing a service to the employer, regardless of occupation,
19 providing the salary of the employee is not diminished thereby;

20 12. "Limitation year" means the year used in applying the
21 limitations of Section 415 of the Internal Revenue Code of 1986,
22 which year shall be the calendar year;

23 13. "Line of duty" means any action which a member whose
24 primary function is crime control or reduction or enforcement of the

1 criminal law is obligated or authorized by rule, regulations,
2 condition of employment or service, or law to perform, including
3 those social, ceremonial, or athletic functions to which the member
4 is assigned, or for which the member is compensated, by the agency
5 the member serves;

6 14. "Personal injury" or "injury" means any traumatic injury as
7 well as diseases which are caused by or result from such an injury,
8 but not occupational diseases;

9 15. "Catastrophic nature" means consequences of an injury that
10 permanently prevent an individual from performing any gainful work;

11 16. "Traumatic injury" means a wound or a condition of the body
12 caused by external force, including injuries inflicted by bullets,
13 explosives, sharp instruments, blunt objects or other physical
14 blows, chemicals, electricity, climatic conditions, infectious
15 diseases, radiation, and bacteria, but excluding stress and strain;
16 and

17 17. "Beneficiary" means the individual designated by the member
18 on a beneficiary designation form supplied by the Oklahoma Law
19 Enforcement Retirement System, or if there is no designated
20 beneficiary or if the designated beneficiary predeceases the member,
21 the estate of the member. If the member's spouse is not designated
22 as the sole primary beneficiary, the member's spouse must sign a
23 consent.

24 SECTION 10. This act shall become effective July 1, 2011.

1 SECTION 11. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval."

5 Passed the House of Representatives the 25th day of April, 2011.

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Presiding Officer of the House of
Representatives

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10 Passed the Senate the ____ day of _____, 2011.

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Presiding Officer of the Senate

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1 ENGROSSED SENATE
2 BILL NO. 574

By: Jolley of the Senate

3 and

4 Trebilcock of the House
5
6

7 An Act relating to the practice of dentistry;
8 amending 59 O.S. 2001, Sections 328.27, as amended by
9 Section 3, Chapter 377, O.S.L. 2005, 328.32, 328.36a,
10 and 328.44a, as last amended by Section 6, Chapter
11 377, O.S.L. 2005 (59 O.S. Supp. 2010, Sections 328.27
12 and 328.44a), which relate to the State Dental Act;
13 requiring faculty permit holders to show certain
14 proof; modifying list of acts by a dentist which
15 constitute grounds for penalties by Board of
16 Dentistry; modifying requirements of laboratory
17 prescriptions issued by a dentist; requiring Board to
18 make certain forms readily available; permitting
19 dentists to produce, transfer and retain certain
20 copies electronically; permitting Board to collect
21 certain fees; requiring professional liability
22 insurance for dentists; permitting the Board to
23 promulgate certain rules; providing for codification;
24 and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 12. AMENDATORY 59 O.S. 2001, Section 328.27, as
amended by Section 3, Chapter 377, O.S.L. 2005 (59 O.S. Supp. 2010,
Section 328.27), is amended to read as follows:

Section 328.27. A. 1. The Board of Dentistry may, without a
clinical examination, upon presentation of satisfactory credentials,
including completion of the dental hygiene National Boards and both

1 Part I and Part II of the National Board examination for dentists,
2 and under such rules as the Board may promulgate, issue a faculty
3 permit to an applicant who:

- 4 a. is a graduate of a school of dentistry approved by the
5 Board and is licensed to practice dentistry in another
6 state or country,
- 7 b. successfully completes advanced training in a
8 specialty approved by the Commission on Dental
9 Accreditation of the American Dental Association, or
- 10 c. is a graduate of an accredited dental hygiene program
11 and is licensed to practice dental hygiene in another
12 state.

13 2. A faculty permit shall be issued only upon the certification
14 of the dean of an accredited dental college or the director of an
15 accredited dental hygiene program located in this state that the
16 applicant is a bona fide member of the teaching staff of that
17 college or program.

18 3. Following the first year of employment, the faculty permit
19 holder shall show proof of passing an appropriate clinical board
20 examination recognized by the Board of Dentistry.

21 4. A faculty permit shall be valid for one (1) year and may be
22 renewed by the Board at the written request of the dean of an
23 accredited dental program or the director of an accredited dental
24 hygiene program.

1 B. The holder of a faculty permit shall be entitled to perform
2 services and procedures in the same manner as a person holding a
3 license to practice dentistry or dental hygiene in this state, but
4 all services and procedures performed by the faculty permit holder
5 shall only be without compensation other than that received in
6 salary from a faculty position or through faculty practice as
7 authorized by the Board. Such services and procedures shall be
8 performed only within the facilities of an accredited dental college
9 or accredited dental hygiene program or in a seminar or postgraduate
10 course and as an adjunct to teaching functions. A holder of a
11 faculty permit shall only engage in faculty practice of dentistry or
12 dental hygiene within the facilities designated by the accredited
13 dental college and including teaching hospitals approved by the
14 Board.

15 SECTION 13. AMENDATORY 59 O.S. 2001, Section 328.32, is
16 amended to read as follows:

17 Section 328.32. A. The following acts or occurrences by a
18 dentist shall constitute grounds for which the penalties specified
19 in Section 328.44a of this title may be imposed by order of the
20 Board of Dentistry:

21 1. Pleading guilty or nolo contendere to, or being convicted
22 of, a felony, a misdemeanor involving moral turpitude, or a
23 violation of federal or state controlled dangerous substances laws;

24

- 1 2. Presenting to the Board a false diploma, license, or
2 certificate, or one obtained by fraud or illegal means;
- 3 3. Being, by reason of persistent inebriety or addiction to
4 drugs, incompetent to continue the practice of dentistry;
- 5 4. Publishing a false, fraudulent, or misleading advertisement
6 or statement;
- 7 5. Authorizing or aiding an unlicensed person to practice
8 dentistry, to practice dental hygiene, or to perform a function for
9 which a permit from the Board is required;
- 10 6. Authorizing or aiding a dental hygienist to perform any
11 procedure prohibited by the State Dental Act or the rules of the
12 Board;
- 13 7. Authorizing or aiding a dental assistant to perform any
14 procedure prohibited by the State Dental Act or the rules of the
15 Board;
- 16 8. Failing to pay fees as required by the State Dental Act or
17 the rules of the Board;
- 18 9. Failing to complete continuing education requirements;
- 19 10. Representing himself or herself to the public as a
20 specialist in a dental specialty without holding a dental specialty
21 license therefor;
- 22 11. Representing himself or herself to the public as a
23 specialist whose practice is limited to a dental specialty, when
24 such representation is false, fraudulent, or misleading;

1 12. Endangering the health of patients by reason of having a
2 highly communicable disease and continuing to practice dentistry
3 without taking appropriate safeguards;

4 13. Being a menace to the public health by reasons of
5 practicing dentistry in an unsafe or unsanitary manner or place;

6 14. Being shown to be mentally unsound;

7 15. Being shown to be grossly immoral and that such condition
8 represents a threat to patient care or treatment;

9 16. Being incompetent to practice dentistry while delivering
10 care to a patient;

11 17. Committing gross negligence in the practice of dentistry;

12 18. Committing repeated acts of negligence in the practice of
13 dentistry;

14 19. Offering to effect or effecting a division of fees, or
15 agreeing to split or divide a fee for dental services with any
16 person, in exchange for the person bringing or referring a patient;

17 20. Being involuntarily committed to an institution for
18 treatment for substance abuse, until recovery or remission;

19 21. Using or attempting to use the services of a dental
20 laboratory or dental laboratory technician without issuing a
21 laboratory prescription, except as provided in subsection C of
22 Section 328.36 of this title;

23 22. Aiding, abetting, or encouraging a dental hygienist
24 employed by the dentist to make use of an oral prophylaxis list, or

1 the calling by telephone or by use of letters transmitted through
2 the mails to solicit patronage from patients formerly served in the
3 office of any dentist formerly employing such hygienist;

4 23. Having more than the equivalent of two full-time dental
5 hygienists for each dentist actively practicing in the same dental
6 office who will supervise the dental hygienists;

7 24. Knowingly patronizing or using the services of a dental
8 laboratory or dental laboratory technician who has not complied with
9 the provisions of the State Dental Act and the rules of the Board;

10 25. Authorizing or aiding a dental hygienist, dental assistant,
11 dental laboratory technician, or holder of a permit to operate a
12 dental laboratory to violate any provision of the State Dental Act
13 or the rules of the Board;

14 26. Willfully disclosing confidential information;

15 27. Writing a false, unnecessary, or excessive prescription for
16 any drug or narcotic which is a controlled dangerous substance under
17 either federal or state law;

18 28. Prescribing or administering any drug or treatment without
19 having established a valid dentist-patient relationship;

20 29. Engaging in nonconsensual physical contact with a patient
21 which is sexual in nature, or engaging in a verbal communication
22 which is intended to be sexually demeaning to a patient;

23

24

1 30. Practicing dentistry without displaying, at the dentist's
2 primary place of practice, the license issued to the dentist by the
3 Board to practice dentistry and the current renewal certificate;

4 31. Being dishonest in a material way with a patient;

5 32. Failing to retain all patient records for at least three
6 (3) years, except that the failure to retain records shall not be a
7 violation of the State Dental Act if the dentist shows that the
8 records were lost, destroyed, or removed by another, without the
9 consent of the dentist;

10 33. Failing to retain the dentist's copy of any laboratory
11 prescription for at least three (3) years, except that the failure
12 to retain records shall not be a violation of the State Dental Act
13 if the dentist shows that the records were lost, destroyed, or
14 removed by another, without the consent of the dentist;

15 34. Allowing any corporation, organization, group, person, or
16 other legal entity, except another dentist or a professional entity
17 that is in compliance with the registration requirements of
18 subsection B of Section 328.31 of this title, to direct, control, or
19 interfere with the dentist's clinical judgment. Clinical judgment
20 shall include, but not be limited to, such matters as selection of a
21 course of treatment, control of patient records, policies and
22 decisions relating to pricing, credit, refunds, warranties and
23 advertising, and decisions relating to office personnel and hours of
24 practice. Nothing in this paragraph shall be construed to:

- 1 a. limit a patient's right of informed consent, or
2 b. to prohibit insurers, preferred provider organizations
3 and managed care plans from operating pursuant to the
4 applicable provisions of the Oklahoma Insurance Code
5 and the Public Health Code;

6 35. Violating the state dental act of another state resulting
7 in a plea of guilty or nolo contendere, conviction or suspension or
8 revocation of the license of the dentist under the laws of that
9 state;

10 36. Violating or attempting to violate the provisions of the
11 State Dental Act or the rules of the Board, as a principal,
12 accessory or accomplice; ~~or~~

13 37. Failing to comply with the terms and conditions of an order
14 imposing suspension of a license or placement on probation issued
15 pursuant to Section 328.44a of this title; or

16 38. Failing to cooperate during an investigation or providing
17 false information, verbally or in writing, to the Board's
18 investigator or an agent of the Board.

19 B. The provisions of the State Dental Act shall not be
20 construed to prohibit any dentist from displaying or otherwise
21 advertising that the dentist is also currently licensed, registered,
22 certified, or otherwise credentialed pursuant to the laws of this
23 state or a nationally recognized credentialing board, if authorized
24 by the laws of the state or credentialing board to display or

1 otherwise advertise as a licensed, registered, certified, or
2 credentialed dentist.

3 SECTION 14. AMENDATORY 59 O.S. 2001, Section 328.36a, is
4 amended to read as follows:

5 Section 328.36a. A. A dentist may utilize a dental laboratory
6 technician and a dental laboratory to perform or provide dental
7 laboratory technology. Except as provided in subsection C of
8 Section 328.36 of this title, a dentist who utilizes the services of
9 a dental laboratory technician or dental laboratory shall furnish a
10 laboratory prescription for each patient for whom a work product is
11 prescribed.

12 B. Laboratory prescriptions issued by a dentist shall be ~~in~~
13 ~~duplicate on consecutively numbered forms approved by the Board of~~
14 ~~Dentistry and~~ containing the minimum information required by
15 subsection D of this section and shall be produced or printed by
16 each dentist. Such forms shall be provided by the Board of
17 Dentistry or downloaded from the Board's website. All forms shall
18 be completed in full and signed by the prescribing dentist. The
19 owner of a dental laboratory shall retain each original laboratory
20 prescription received from a prescribing dentist and produce the
21 document for inspection and copying by a member of the Board or by
22 an agent or employee of the Board, for a period of three (3) years
23 from the date of the laboratory prescription. The prescribing
24 dentist shall retain the duplicate copy of each laboratory

1 prescription and produce the document for inspection and copying by
2 a member of the Board or by an agent or employee of the Board, for a
3 period of three (3) years from the date of the laboratory
4 prescription.

5 C. The patient's name or the identification number of the
6 laboratory prescription shall appear on all dental models and
7 correspond to all dental restorations, appliances or other devices
8 being constructed, reproduced or repaired. Any dental model,
9 restoration, appliance or other device in the possession of a dental
10 laboratory technician or dental laboratory without a laboratory
11 prescription and corresponding number on the model, restoration,
12 appliance or device shall be prima facie evidence of a violation of
13 the State Dental Act. After completion, the prescribed work product
14 shall be returned by the dental laboratory technician or dental
15 laboratory to the prescribing dentist or the dental office of the
16 dentist with the name or number of the laboratory prescription
17 accompanying the invoice.

18 D. At a minimum, prescriptions shall contain the following
19 information:

20 1. The name and address of the dental laboratory;

21 2. The patient's name and/or identifying number. In the event
22 such identifying number is used, the name of the patient shall be
23 written on a copy of the prescription retained by the dentist;
24

1 3. A description of the work to be completed with diagrams, if
2 applicable;

3 4. A description of the type of materials to be used;

4 5. The actual date on which the authorization or prescription
5 was written or completed;

6 6. The signature in ink or by electronic method of the dentist
7 issuing the prescription and the state license number and address of
8 such dentist; and

9 7. A section to be completed by the dental laboratory and
10 returned to the issuing dentist that shall disclose all information
11 and certify that the information is accurate by including the
12 signature of a reasonable part of the primary contractor.

13 E. The Board shall make readily available a sample form on the
14 Board's website for use by any licensee at no cost.

15 F. A dentist may produce, transfer and retain copies of the
16 form electronically.

17 SECTION 15. AMENDATORY 59 O.S. 2001, Section 328.44a, as
18 last amended by Section 6, Chapter 377, O.S.L. 2005 (59 O.S. Supp.
19 2010, Section 328.44a), is amended to read as follows:

20 Section 328.44a. A. The Board of Dentistry is authorized,
21 after notice and opportunity for a hearing pursuant to Article II of
22 the Administrative Procedures Act, to issue an order imposing one or
23 more of the following penalties whenever the Board finds, by clear
24 and convincing evidence, that a dentist, dental hygienist, dental

1 assistant, dental laboratory technician, or holder of a permit to
2 operate a dental laboratory has committed any of the acts or
3 occurrences set forth in Sections 328.29, 328.32, 328.33, 328.39 and
4 328.39a of this title:

5 1. Refusal to issue a license or permit, or a renewal thereof,
6 provided for in the State Dental Act;

7 2. Suspension of a license or permit issued by the Board for a
8 period of time deemed appropriate by the Board;

9 3. Revocation of a license or permit issued by the Board;

10 4. Imposition of an administrative penalty not to exceed One
11 Thousand Five Hundred Dollars (\$1,500.00) per violation;

12 5. Issuance of a censure;

13 6. Placement on probation for a period of time and under such
14 terms and conditions as deemed appropriate by the Board;

15 7. Probation monitoring fees, which shall be the responsibility
16 of the licensee on all probations;

17 8. Restriction of the services that can be provided by a
18 dentist or dental hygienist, under such terms and conditions as
19 deemed appropriate by the Board; or

20 ~~8.~~ 9. Assessment for the cost of the hearing process including
21 attorney fees.

22 B. A dentist, dental hygienist, dental assistant, dental
23 laboratory technician, or holder of a permit to operate a dental
24 laboratory, against whom a penalty is imposed by an order of the

1 Board pursuant to the provisions of this section, shall have the
2 right to seek a judicial review of such order pursuant to Article II
3 of the Administrative Procedures Act.

4 SECTION 16. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 328.53 of Title 59, unless there
6 is created a duplication in numbering, reads as follows:

7 A. All dentists in active practice licensed by the Board of
8 Dentistry shall maintain a policy for professional liability
9 insurance; provided, however, that such requirement shall not apply
10 to dentists who are limited to providing care as a volunteer under a
11 special volunteer license pursuant to Section 328.23a of Title 59 of
12 the Oklahoma Statutes.

13 B. The Board of Dentistry may promulgate rules as necessary to
14 carry out the provisions of this section, including, but not limited
15 to, minimum requirements for professional liability insurance
16 policies and penalties for noncompliance.

17 SECTION 17. This act shall become effective November 1, 2011.
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1 Passed the Senate the 9th day of March, 2011.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2011.

7
8 _____
9 Presiding Officer of the House
10 of Representatives