

CHAPTER 262

PROFESSIONS AND OCCUPATIONS

SENATE BILL 96-087

BY SENATORS Mutzebaugh, Pascoe, Wattenberg, and Weddig;
also REPRESENTATIVES Salaz, Armstrong, Dean, Epps, George, Mace, Martin, Pankey, Prinster, Reeser, Schwarz, Snyder, Sullivan,
Sullivant, and Taylor.

AN ACT

CONCERNING REGULATION OF THE PRACTICE OF DENTISTRY, AND, IN CONNECTION THEREWITH, CONTINUING THE REGULATORY AUTHORITY OF THE STATE BOARD OF DENTAL EXAMINERS, CHANGING MEMBERSHIP ON THE STATE BOARD OF DENTAL EXAMINERS TO INCLUDE FIVE DENTISTS, IMPOSING TERM LIMITS ON BOARD MEMBERSHIP AND MODIFYING REQUIREMENTS FOR SUCH MEMBERSHIP, CLARIFYING AND UPDATING LICENSING AND DISCIPLINARY REQUIREMENTS FOR PERSONS REGULATED BY THE STATE BOARD OF DENTAL EXAMINERS, AND INCLUDING WITHIN THE PRACTICE OF DENTISTRY CERTAIN SPECIFIED PROCEDURES, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-35-103 (1.3) and (4)(a), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-35-103 (4) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-35-103. Definitions. As used in this article, unless the context otherwise requires:

(1.3) "Examination proctor" means a licensed dentist or dental hygienist, who shall have five years' clinical experience and who is appointed by the board to supervise and administer written and clinical examinations in the field in which ~~he~~ THE DENTIST is licensed to practice under this article.

(4) "Personal direction" means the orders of a dentist licensed in Colorado, which shall be classified as follows:

(a) "Direct supervision" means the supervision of those tasks or procedures that do not require the presence of the dentist in the room where performed but require ~~his~~ THE DENTIST'S presence on the premises and availability for prompt consultation and

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

treatment.

(c) FOR PURPOSES OF THIS SUBSECTION (4) ONLY, "PREMISES" MEANS WITHIN THE SAME BUILDING, DENTAL OFFICE, OR TREATMENT FACILITY AND WITHIN CLOSE ENOUGH PROXIMITY TO RESPOND IN A TIMELY MANNER TO AN EMERGENCY OR THE NEED FOR ASSISTANCE.

SECTION 2. 12-35-104 (1) and (2), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-35-104, as amended, is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-35-104. State board of dental examiners - subject to termination - immunity - repeal of article. (1) The state board of dental examiners, referred to in this article as the "board", in existence on July 1, 1986, is continued as the agency of this state for the regulation of the practice of dentistry in this state and to carry out the purposes of this article. The board shall be under the supervision and control of the division of registrations as provided by section 24-34-102, C.R.S. The board shall consist of ~~four~~ FIVE dentist members, two dental hygienist members, and three members from the public at large, each member to be appointed by the governor for a term of four years and to have the qualifications provided in this article; except that the dentist member first appointed on or after July 1, 1986, shall serve for a term ending January 1, 1989. Of the two new public members appointed on July 1, 1986, one member shall serve a term ending January 1, 1989, and one member shall serve a term ending January 1, 1990. ~~There shall be at least one member from each congressional district, but no more than two members of the board may reside in the same congressional district at the same time. No more than five members of the board shall be members of the same major political party. A vacancy on the board occurs whenever any member moves out of the congressional district from which he was appointed. A member who moves out of such congressional district shall promptly notify the governor of the date of such move, but such notice is not a condition precedent to the occurrence of the vacancy.~~ DUE CONSIDERATION SHALL BE GIVEN TO HAVING A GEOGRAPHICAL, POLITICAL, AND URBAN/RURAL BALANCE AMONG THE BOARD MEMBERS. Should a vacancy occur in any board membership before the expiration of the term thereof, the governor shall fill such vacancy by appointment for the remainder of such term in the same manner as in the case of original appointments. The terms of existing board members serving on the board as of July 1, 1986, shall not be disturbed by the provisions of this subsection (1), except as necessary to comply with the requirements governing composition of the board. Any member of the board may be removed by the governor for misconduct, incompetence, or neglect of duty.

(2) The board shall organize annually by electing one of its members as ~~president~~ CHAIRPERSON, one as ~~vice-president~~ VICE-CHAIRPERSON, and one as secretary. ~~and treasurer.~~ It may adopt such rules for its government as it may deem proper and shall adopt and use a seal. The board shall meet at least once a year, and more often if necessary, at such times and places as it may from time to time designate.

(6) MEMBERS OF THE BOARD SHALL BE IMMUNE FROM SUIT IN ANY CIVIL ACTION BASED ON ANY DISCIPLINARY PROCEEDINGS OR OTHER OFFICIAL ACTS PERFORMED IN GOOD FAITH AS MEMBERS OF SUCH BOARD.

SECTION 3. 12-35-105, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-105. Qualifications of board members. ~~No person shall be appointed to the board who is not a legal resident of Colorado, and no dentist or dental hygienist shall be appointed to the board who has not been licensed to practice dentistry or dental hygiene, respectively, in Colorado for at least five years immediately preceding his appointment. No person shall be eligible for appointment to the board who has been convicted of a violation of any of the provisions of this or any prior dental practice laws or has been convicted of a felony.~~ A PERSON SHALL BE QUALIFIED TO BE APPOINTED TO THE BOARD IF SUCH PERSON IS:

(a) A LEGAL RESIDENT OF COLORADO;

(b) CURRENTLY LICENSED AS A DENTIST OR DENTAL HYGIENIST; AND

(c) HAS BEEN ACTIVELY ENGAGED IN A CLINICAL PRACTICE IN THIS STATE FOR AT LEAST FIVE YEARS IMMEDIATELY PRECEDING THE APPOINTMENT.

(2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, A PERSON CONVICTED OF A FELONY IN COLORADO OR ANY OTHER STATE OR OF VIOLATING THIS ARTICLE OR ANY LAW GOVERNING THE PRACTICE OF DENTISTRY SHALL NOT BE APPOINTED TO OR SERVE ON THE BOARD.

SECTION 4. 12-35-107 (1) (a), (1) (b), (1) (c), and (1) (e), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-35-107. Powers and duties of board. (1) The board shall exercise, subject to the provisions of this article, the following powers and duties:

(a) ~~Conduct examinations to ascertain the qualifications and fitness of applicants for licenses to practice dentistry and for licenses to practice dental hygiene;~~ CONDUCT EXAMINATIONS TO ASCERTAIN THE QUALIFICATIONS AND FITNESS OF APPLICANTS FOR LICENSURE TO PRACTICE DENTISTRY AND DENTAL HYGIENE. TO ASSIST WITH SUCH EXAMINATIONS:

(I) ONLY PROCTORS OR LICENSED DENTISTS MAY PARTICIPATE IN THE EXAMINATION OF CANDIDATES FOR DENTAL LICENSURE;

(II) LICENSED DENTISTS, LICENSED DENTAL HYGIENISTS, OR PROCTORS MAY PARTICIPATE IN THE EXAMINATION OF CANDIDATES FOR DENTAL HYGIENE LICENSURE;

(b) ~~Make, publish, and declare reasonable rules and regulations after public hearing thereon. All rules and regulations of the board shall be reviewed annually at a public hearing. Notice of such hearing shall be given at least thirty days prior to the date set for the hearing in the manner prescribed by section 24-4-103, C.R.S. Rules and regulations of the board may concern but not be limited to:~~ MAKE, PUBLISH, DECLARE, AND PERIODICALLY REVIEW SUCH REASONABLE RULES AS MAY BE NECESSARY TO CARRY OUT AND MAKE EFFECTIVE THE POWERS AND DUTIES OF THE BOARD AS VESTED IN IT BY THIS ARTICLE. RULES OF THE BOARD MAY INCLUDE BUT SHALL NOT BE LIMITED TO:

(I) ~~The conduct and administration of examinations~~ EXAMINATION of applicants for licensing as dentists and dental hygienists;

(II) The practices of dentistry and dental hygiene;

(III) The tasks and procedures which may be assigned to dental auxiliaries and dental hygienists;

(IV) The specification of essential instructions to be included in a laboratory work order.

(c) Conduct hearings to revoke, suspend, or deny the issuance of a license, license certificate, or renewal certificate granted under the authority of this article or of previous laws, ~~ISSUE A CONFIDENTIAL LETTER OF CONCERN, or to~~ reprimand, censure, or place on probation a licensee when evidence has been presented showing violation of any of the provisions of this article by a holder of or an applicant for a license, license certificate, or renewal certificate. The board may elect to hear the matter itself, or it may elect to hear the matter with the assistance of an administrative law judge or an advisory attorney from the office of the attorney general, and, in such case, the advisor or administrative law judge shall advise the board on legal and procedural matters and rule on evidence and otherwise conduct the course of the hearing.

(e) Grant and issue licenses and renewal certificates in conformity with this article to such applicants as have been found qualified. ~~THE BOARD MAY ALSO GRANT AND ISSUE TEMPORARY LICENSES. THE BOARD SHALL PROMULGATE RULES CONCERNING THE GRANTING OF TEMPORARY LICENSES, WHICH SHALL INCLUDE BUT NOT BE LIMITED TO RESTRICTIONS WITH RESPECT TO EFFECTIVE DATES, AREAS OF PRACTICE THAT MAY BE PERFORMED, AND LICENSING FEES THAT MAY BE CHARGED TO THE APPLICANT.~~

SECTION 5. 12-35-108 (1) (a), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-108. Power of board to administer oaths - issue subpoenas - service - penalty for refusing to obey subpoena. (1) (a) The president and, in ~~his~~ THE PRESIDENT'S absence, the vice-president and, in the latter's absence, the secretary, ~~and treasurer,~~ or an administrative law judge, shall have the power to administer oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses and the production of all necessary papers, books, records, documentary evidence, and materials in any hearing, investigation, accusation, or other matter coming before the board. The board may appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., to take evidence and to make findings and report them to the board. The sheriffs of the several counties of the state or other officers authorized to serve process shall serve any subpoena or other order issued by such officer or officers of said board and shall receive for such services the fees provided for like service to be paid on certification of such officer from any funds in the hands of the board.

SECTION 6. 12-35-109 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-109. Persons entitled to practice dentistry or dental hygiene. (1) It is unlawful for any person to practice dentistry or dental hygiene in this state except those:

(a) ~~Who, on or after April 21, 1961, were duly licensed dentists, pursuant to the laws of this state;~~

(b) ~~Who, on or after April 21, 1961, were duly licensed dental hygienists, pursuant to the laws of this state;~~

(c) ~~Who may be~~ ARE duly licensed as dentists or dental hygienists pursuant to ~~the provisions of this article;~~

(d) Who are designated by this article as dental auxiliaries, but only to the extent of the procedures authorized by THIS ARTICLE AND the rules ~~and regulations~~ adopted by the board.

SECTION 7. 12-35-110, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-110. What constitutes practicing dentistry. (1) ~~Any~~ A person shall be deemed to be practicing dentistry ~~who~~ IF IN THE COURSE OF LEGITIMATE PROFESSIONAL PRACTICE SUCH PERSON:

(a) Performs, or attempts or professes to perform, any dental operation or oral surgery or dental diagnostic or therapeutic services of any kind. Nothing in this paragraph (a) shall be construed as prohibiting a dental hygienist or dental auxiliary from providing preventive dental or nutritional counseling, education, or instruction services.

(b) Is a proprietor of a place where dental operation, oral surgery, or dental diagnostic or therapeutic services are performed; except that nothing in this section shall be construed as prohibiting a dental hygienist or dental auxiliary from performing those tasks and procedures consistent with section 12-35-125 (2) and (3);

(c) Directly or indirectly, by any means or method, takes impression of the human tooth, teeth, or jaws or performs any phase of any operation incident to the replacement of a part of a tooth or supplies artificial substitutes for the natural teeth; EXCEPT THAT NOTHING IN THIS SECTION SHALL PROHIBIT OR BE CONSTRUED AS PROHIBITING A DENTAL HYGIENIST OR DENTAL AUXILIARY FROM PERFORMING TASKS AND PROCEDURES CONSISTENT WITH SECTIONS 12-35-122.5 (1) (d), 12-35-122.6 (1) (d), AND 12-35-125 (4) (a) (I);

(d) Furnishes, supplies, constructs, reproduces, or repairs any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth other than on the written laboratory work order of a duly licensed and practicing dentist, or places such appliance or structure in the human mouth, or adjusts or attempts or professes to adjust the same, or delivers the same to any person other than the dentist upon whose laboratory work order the work was performed;

(e) Professes to the public by any method to furnish, supply, construct, reproduce,

or repair any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth;

~~(f) Diagnoses, or professes to diagnose, prescribes for or professes to the public to prescribe for, treats or professes to treat disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws or adjacent structure~~ EXAMINES, DIAGNOSES, PLANS TREATMENT, OR TREATS NATURAL OR ARTIFICIAL STRUCTURES OR CONDITIONS ASSOCIATED WITH, ADJACENT TO, OR FUNCTIONALLY RELATED TO THE ORAL CAVITY OR THE MAXILLOFACIAL AREA;

(g) Extracts, or attempts to extract, human teeth, or corrects, or attempts to correct, malformations of teeth or of the jaws;

(h) Repairs or fills cavities in the human teeth;

~~(i) Uses a roentgen or X-ray machine for the purpose of taking dental X-rays or roentgenograms~~ PRESCRIBES IONIZING RADIATION OR THE USE OF AN X RAY FOR THE PURPOSE OF TAKING DENTAL X RAYS OR ROENTGENOGRAMS. THESE PROCEDURES MAY BE DELEGATED TO APPROPRIATELY TRAINED PERSONNEL;

(j) Gives, or professes to give, interpretations or readings of dental X-rays or roentgenograms; EXCEPT THAT NOTHING IN THIS SECTION SHALL PROHIBIT OR BE CONSTRUED AS PROHIBITING A DENTAL HYGIENIST FROM PERFORMING TASKS AND PROCEDURES CONSISTENT WITH SECTION 12-35-122.5 AND 12-35-122.6;

~~(k) Uses the words dentist, dental surgeon, oral surgeon, or the letters D.D.S., D.M.D., or any other words, letters, title, or descriptive matter which in any way represents to the general public that he is able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the teeth or jaws or adjacent structures~~ REPRESENTS HIMSELF OR HERSELF TO AN INDIVIDUAL OR THE GENERAL PUBLIC AS PRACTICING DENTISTRY, BY USING THE WORDS "DENTIST" OR "DENTAL SURGEON", OR BY USING THE LETTERS "D.D.S.", "D.M.D.", "D.D.S./M.D.", OR "D.M.D./M.D.". NOTHING IN THIS PARAGRAPH (k) SHALL PROHIBIT OR BE CONSTRUED AS PROHIBITING A DENTAL HYGIENIST OR DENTAL AUXILIARY FROM PERFORMING TASKS AND PROCEDURES CONSISTENT WITH SECTION 12-35-125 (2) (a) OR (4) (a); ~~or~~

(l) States, permits to be stated, or professes by any means or method whatsoever that he OR SHE can perform or will attempt to perform dental operations or render a diagnosis connected therewith;

(m) PRESCRIBES SUCH DRUGS OR MEDICATIONS AND ADMINISTERS SUCH GENERAL OR LOCAL ANESTHETICS, ANESTHESIA, OR ANALGESIA AS MAY BE NECESSARY FOR THE PROPER PRACTICE OF DENTISTRY; EXCEPT THAT NOTHING IN THIS SECTION SHALL PROHIBIT OR BE CONSTRUED AS PROHIBITING A DENTAL HYGIENIST FROM PERFORMING THOSE TASKS AND PROCEDURES CONSISTENT WITH SECTIONS 12-35-122.5 (1) (e), 12-35-122.6 (1) (e) AND (1) (f), AND 12-35-125, AND IN ACCORDANCE WITH RULES PROMULGATED BY THE BOARD.

(n) PRESCRIBES, INDUCES, AND SETS DOSAGE LEVELS FOR INHALATION ANALGESIA. MONITORING AND ADMINISTRATION MAY BE DELEGATED TO APPROPRIATELY TRAINED

PERSONNEL.

(o) GIVES OR PROFESSES TO GIVE INTERPRETATIONS OR READINGS OF DENTAL CHARTS OR RECORDS OR GIVES TREATMENT PLANS OR INTERPRETATIONS OF TREATMENT PLANS DERIVED FROM EXAMINATIONS, PATIENT RECORDS, DENTAL X RAYS, OR ROENTGENOGRAMS; EXCEPT THAT NOTHING IN THIS SECTION SHALL PROHIBIT OR BE CONSTRUED AS PROHIBITING A DENTAL HYGIENIST OR DENTAL AUXILIARY FROM PERFORMING TASKS AND PROCEDURES CONSISTENT WITH SECTIONS 12-35-125 (2) AND (4), 12-35-122.5, AND 12-35-122.6.

SECTION 8. 12-35-111 (1)(a), Colorado Revised Statutes, 1991 Repl. Vol., is amended, and the said 12-35-111 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-35-111. Persons exempt from operations of this article. (1) Nothing in this article shall apply to the following practices, acts, and operations:

(a) Practice of his OR HER profession by a physician or surgeon licensed as such under the laws of this state unless he THE PHYSICIAN OR SURGEON practices dentistry as a specialty;

(i) THE PRACTICING OF DENTISTRY OR DENTAL HYGIENE BY AN EXAMINER REPRESENTING A TESTING AGENCY APPROVED BY THE BOARD, DURING THE ADMINISTRATION OF AN EXAMINATION.

SECTION 9. 12-35-112, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-35-112. Names and status under which dental practice may be conducted.

(1) The conduct of the practice of dentistry OR DENTAL HYGIENE in a corporate capacity is prohibited, but such prohibition shall not be construed to prevent the practice of dentistry OR DENTAL HYGIENE by a professional service corporation of licensees so constituted that they may be treated under the federal internal revenue laws as a corporation for tax purposes only. Any such professional service corporation may exercise such powers and shall be subject to such limitations and requirements, insofar as applicable, as are provided in section 12-36-134, relating to professional service corporations for the practice of medicine.

(2) THE group practice of dentistry OR DENTAL HYGIENE is permitted.

(3) The practice of dentistry OR DENTAL HYGIENE by a limited liability company of licensees or by a limited liability partnership of licensees is permitted subject to the limitations and requirements, insofar as are applicable, set forth in section 12-36-134, relating to a limited liability company or limited liability partnership for the practice of medicine.

SECTION 10. 12-35-113 (1) (b), Colorado Revised Statutes, 1991 Repl. Vol., is amended, and the said 12-35-113 (1), as amended, is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-35-113. Application for license - fee. (1) Every person not currently holding

a license to practice dentistry in this state who desires to practice dentistry in this state shall file with the secretary of the board an application for a license on a form to be provided by the board, verified by the oath of the applicant, and accompanied by a fee required by section 12-35-123.5 (2) (b) or established pursuant to section 24-34-105, C.R.S., in which application it shall appear that the applicant:

(b) Is a graduate of a dental school or college which at the time of the applicant's graduation was accredited by the council on dental education of the American dental association. It shall be sufficient for the applicant to attach to ~~his~~ THE APPLICANT'S application a certified photostatic copy of a transcript of credits prepared by the dental college or school attended by the applicant.

(e) HAS VERIFICATION OF LICENSURE FROM OTHER JURISDICTIONS WHERE THE APPLICANT HOLDS A CURRENT DENTAL OR OTHER HEALTH CARE LICENSE.

SECTION 11. 12-35-113.5, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-113.5. Graduates of foreign dental schools. (1) ~~Notwithstanding anything in section 12-35-113 (1) (b) to the contrary, an applicant for a license to practice dentistry who has studied dentistry and received a degree of doctor of dental medicine or doctor of dental surgery from a foreign dental school shall be eligible for licensure if he~~ AN APPLICANT FOR A LICENSE TO PRACTICE DENTISTRY WHO IS A GRADUATE OF A FOREIGN NONACCREDITED DENTAL SCHOOL MUST:

(a) ~~Prior to acceptance into the certification program described in paragraph (b) of this subsection (1), has passed the examinations given by the national board of dental examiners of the American dental association~~ PRESENT EVIDENCE OF HAVING COMPLETED A PROGRAM IN CLINICAL DENTISTRY AND HAVING OBTAINED A DOCTORATE OF DENTAL SURGERY OR A DOCTORATE OF DENTAL MEDICINE AT A DENTAL SCHOOL ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITING AGENCY;

(b) ~~Has been recommended for examination for licensure by the school of dentistry at the university of Colorado following satisfactory completion of a comprehensive preclinical dental examination, developed with the approval of the board, certifying that the applicant meets the standards established for students of the school of dentistry in those areas specified by the board; such an evaluation will be administered on an annual basis at the expense of the applicant and at the written request of the board~~ PASS THE EXAMINATION ADMINISTERED BY THE JOINT COMMISSION ON NATIONAL DENTAL EXAMINATIONS;

(c) ~~Has achieved a passing score on the examinations specified by the board for other applicants for licensure, pursuant to section 12-35-114; and~~ PASS AN EXAMINATION DESIGNED TO TEST THE APPLICANT'S CLINICAL SKILLS AND KNOWLEDGE. SUCH EXAMINATION MAY BE ADMINISTERED BY A TESTING AGENCY OF WHICH THE BOARD IS A PARTICIPATING MEMBER.

(d) ~~Has completed, subsequent to meeting the requirements of paragraphs (a) to (c) of this subsection (1) and within two years after meeting such requirements, a one-year probationary period of dental practice under the direct supervision of a dentist licensed in accordance with this article and has been recommended for~~

licensure to the board by the supervising dentist. The applicant shall register with the board in advance of the one-year probationary period and submit quarterly reports in accordance with the rules and on forms provided therefor by the board. Upon registration, the applicant shall be issued a probationary license, which shall expire when the applicant ceases practicing under the direct supervision of the licensed dentist or after one year, whichever is earlier.

SECTION 12. 12-35-114 (1), (2), (3), (4), and (6), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended to read:

12-35-114. Examinations - how conducted - certificates issued to successful applicants - conditions on reexamination. (1) ~~When the application and accompanying proof, as required by section 12-35-113, are found satisfactory, the board shall notify the applicant to submit to an examination at a time and place to be fixed by the board.~~ APPLICANTS FOR DENTAL LICENSURE SHALL SUBMIT TO THE BOARD PROOF OF HAVING SUCCESSFULLY PASSED THE FOLLOWING:

(a) THE EXAMINATION ADMINISTERED BY THE JOINT COMMISSION ON NATIONAL DENTAL EXAMINATIONS;

(b) AN EXAMINATION ON THE PROVISIONS OF THIS ARTICLE;

(c) AN EXAMINATION DESIGNED TO TEST THE APPLICANT'S CLINICAL SKILLS AND KNOWLEDGE. SUCH EXAMINATION MAY BE ADMINISTERED BY A TESTING AGENCY OF WHICH THE BOARD IS A PARTICIPATING MEMBER.

(2) ~~Such examination shall be written, theoretical, practical, and clinical and of such a character as to thoroughly test the qualification of the applicant to practice dentistry. Such examination may be given at any accredited dental school or other facility approved by the board within or without the state of Colorado and may be on a regional basis. Every applicant, however, must be examined for knowledge of the provisions of this article.~~

(3) ~~The board may accept, in lieu of examination upon theory subjects, the certificate of the council of the national board of dental examiners of the American dental association evidencing the successful passing of examinations given by said council. The board may also accept, in accordance with reasonable rules and regulations, in lieu of examination upon theoretical subjects, results of examinations conducted by a school or college of dentistry accredited by the American dental association evidencing the successful passing of examinations given in the program of the school or college.~~

(4) ~~All examination papers given by the board, with the grades affixed thereto, shall be filed with the secretary of the board and kept for reference and inspection for a period of not less than two years.~~ ALL EXAMINATION RESULTS REQUIRED BY THE BOARD SHALL BE FILED WITH THE BOARD AND KEPT FOR REFERENCE FOR A PERIOD OF NOT LESS THAN TWO YEARS. Should the applicant successfully complete such examinations and be otherwise qualified, the applicant shall be granted a license by the board and shall be issued a license certificate signed by a majority of the OFFICERS OF THE board. ~~including the president and the secretary.~~

(6) The board shall adopt rules to establish:

(a) The maximum number of times and maximum time period within which an applicant will be allowed to retake only the failed parts of the ~~clinical~~ examination DESIGNED TO TEST CLINICAL SKILLS AND KNOWLEDGE; and

(b) The maximum number of times an applicant may fail to successfully complete the ~~clinical~~ examination DESIGNED TO TEST CLINICAL SKILLS AND KNOWLEDGE before the board requires such applicant to take specified remedial measures as a prerequisite to retaking the examination.

SECTION 13. Part 1 of article 35 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

12-35-114.5. Licensure by credentials. (1) THE BOARD SHALL PROVIDE FOR LICENSURE UPON APPLICATION OF ANY PERSON LICENSED IN GOOD STANDING TO PRACTICE DENTISTRY IN ANOTHER STATE OR TERRITORY OF THE UNITED STATES WHO PROVIDES THE CREDENTIALS AND MEETS THE QUALIFICATIONS SET FORTH IN THIS SECTION IN THE MANNER PRESCRIBED BY THE BOARD.

(2) THE BOARD SHALL ISSUE A LICENSE TO AN APPLICANT LICENSED AS A DENTIST IN ANOTHER STATE OR TERRITORY OF THE UNITED STATES IF SAID APPLICANT HAS SUBMITTED CREDENTIALS AND QUALIFICATIONS FOR LICENSURE THAT INCLUDE:

(a) PROOF OF GRADUATION FROM A DENTAL SCHOOL ACCREDITED BY THE AMERICAN DENTAL ASSOCIATION COMMISSION ON DENTAL EDUCATION;

(b) PROOF THE APPLICANT IS CURRENTLY LICENSED IN ANOTHER STATE OR UNITED STATES TERRITORY;

(c) PROOF THE APPLICANT HAS BEEN IN PRACTICE FOR A MINIMUM OF FIVE YEARS IMMEDIATELY PRIOR TO APPLYING FOR LICENSURE;

(d) PROOF THE APPLICANT HAS NOT BEEN SUBJECT TO FINAL OR PENDING DISCIPLINARY ACTION BY ANY STATE IN WHICH THE APPLICANT IS OR HAS BEEN PREVIOUSLY LICENSED; HOWEVER, IF THE APPLICANT HAS BEEN SUBJECT TO DISCIPLINARY ACTION, THE BOARD MAY REVIEW SUCH DISCIPLINARY ACTION TO DETERMINE IF IT WARRANTS GROUNDS FOR REFUSAL TO ISSUE A LICENSE;

(e) PROOF THE APPLICANT HAS NOT FAILED THE CLINICAL EXAMINATION ACCEPTED BY THE BOARD IN THE LAST THREE YEARS;

(f) PROOF THE APPLICANT HAS PASSED AN EXAMINATION ON THE PROVISIONS OF THIS ARTICLE;

(g) PROOF THE APPLICANT HAS PASSED AN ENTRY LEVEL EXAMINATION ACCEPTABLE TO THE BOARD; AND

(h) PROOF THE APPLICANT HAS MET ANY MORE STRINGENT CRITERIA ESTABLISHED BY THE BOARD.

SECTION 14. 12-35-116 (1), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-35-116. Renewal of license - fees. (1) On or before the first day of the month designated pursuant to rules and regulations promulgated by the board, every dentist licensed to practice dentistry in this state shall transmit to the secretary of the board, upon a form prescribed by the board, ~~his~~ THE DENTIST'S signature, post-office address, office address, the number of ~~his~~ THE DENTIST'S license certificate, and such other pertinent information as may be requested, together with a fee required by section 12-35-123.5 (2) (b) or established pursuant to section 24-34-105, C.R.S., and all fees then in arrears, and shall receive therefor a renewal certificate authorizing ~~him~~ THE DENTIST to continue the practice of dentistry in this state. The board shall establish renewal fees and schedules subject to the provisions of section 24-34-102 (8), C.R.S.

SECTION 15. 12-35-117 (2), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-117. Failure to renew license - forfeiture - effect on disciplinary proceedings. (2) Failure of any licensee to pay the annual registration fee prescribed by subsection (1) of this section shall automatically suspend the practitioner's license while ~~he~~ THE PRACTITIONER is so delinquent, and the name of any delinquent licensee shall be omitted from the list kept by the secretary of the board pursuant to section 12-35-120.

SECTION 16. The introductory portion to 12-35-118 (1), and 12-35-118 (1) (a), (1) (b), (1) (c), (1) (g), (1) (q), (1) (u), (1.5), (3), (6) (b), and (7), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended, and the said 12-35-118 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

12-35-118. Causes for denial of issuance or renewal - suspension or revocation of licenses - other disciplinary action - unprofessional conduct defined - immunity in professional review. (1) The board may deny the issuance or renewal of, suspend for a specified time period, ~~of not more than one year,~~ or revoke any license provided for by this article or may reprimand, censure, or place on probation any licensed dentist or dental hygienist after notice and hearing, which may be conducted by an administrative law judge, pursuant to the provisions of article 4 of title 24, C.R.S., or it may issue a letter of admonition without a hearing (except that any licensed dentist or dental hygienist to whom such a letter of admonition is sent may, within thirty days after ~~receipt thereof~~ THE DATE OF THE MAILING OF SUCH LETTER BY THE BOARD, request in writing to the board a formal hearing thereon, and the letter of admonition shall be deemed vacated, and the board shall, upon such request, hold such a hearing) for any of the following causes:

(a) Resorting to fraud, misrepresentation, or deception in applying for, ~~or in~~ securing, RENEWING, OR SEEKING REINSTATEMENT OF a license TO PRACTICE DENTISTRY OR DENTAL HYGIENE IN THIS STATE, IN APPLYING FOR PROFESSIONAL LIABILITY COVERAGE REQUIRED PURSUANT TO SECTION 13-64-301, C.R.S., or in taking the ~~examination~~ EXAMINATIONS provided for in this article;

(b) ANY conviction of a felony or ~~pleading guilty or nolo contendere to a felony~~

ANY CRIME THAT WOULD CONSTITUTE A VIOLATION OF THIS ARTICLE. FOR PURPOSES OF THIS PARAGRAPH (b), CONVICTION INCLUDES THE ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE OR A DEFERRED SENTENCE;

(c) Administering, dispensing, or prescribing any habit-forming drug, as defined in section 12-22-102 (13), or any controlled substance as defined in section 12-22-303 (7) other than in the course of legitimate professional practice; ADMINISTERING, DISPENSING, USING, OR PRESCRIBING TO HIMSELF OR HERSELF EXCEPT ON AN EMERGENCY BASIS ANY CONTROLLED SUBSTANCE AS DEFINED IN PART 2 OF ARTICLE 18 OF TITLE 18, C.R.S., OR AS CONTAINED IN SCHEDULE II OF 21 U.S.C. SEC. 812, OTHER THAN IN THE COURSE OF LEGITIMATE PROFESSIONAL PRACTICE.

(g) Except as otherwise provided in section 25-3-103.7, C.R.S., practicing dentistry OR DENTAL HYGIENE as a partner, agent, or employee of or in joint venture with any person who does not hold a license to practice dentistry OR DENTAL HYGIENE within this state or practicing dentistry OR DENTAL HYGIENE as an employee of or in joint venture with any partnership, association, or corporation except as provided in section 12-35-112. Any licensee holding a license to practice dentistry OR DENTAL HYGIENE in this state may accept employment from any person, partnership, association, or corporation to examine, prescribe, and treat the employees of such person, partnership, association, or corporation.

(q) Failure to report a dental OR DENTAL HYGIENE malpractice judgment or settlement to the board by the licensee within ninety days;

(u) Sharing any professional fees with anyone except those with whom ~~he~~ THE DENTIST OR DENTAL HYGIENIST is lawfully associated in the practice of dentistry or dental hygiene; except that it shall not be considered a violation of this paragraph (u) if a licensed dentist OR DENTAL HYGIENIST pays to an independent advertising or marketing agent compensation for the advertising or marketing services rendered on the licensed dentist's OR DENTAL HYGIENIST'S behalf by such agent, including compensation which is paid for the results or performance of such services on a per patient basis;

(cc) FAILING TO REPORT TO THE BOARD THE SURRENDER OF A LICENSE TO, OR ADVERSE ACTION TAKEN AGAINST A LICENSE BY, A LICENSING AGENCY IN ANOTHER STATE, TERRITORY, OR COUNTRY, A GOVERNMENTAL AGENCY, A LAW ENFORCEMENT AGENCY, OR A COURT FOR AN ACT OR CONDUCT THAT WOULD CONSTITUTE GROUNDS FOR DISCIPLINE PURSUANT TO THIS ARTICLE.

(dd) FAILING TO PROVIDE ADEQUATE OR PROPER SUPERVISION WHEN EMPLOYING UNLICENSED PERSONS IN A DENTAL OR DENTAL HYGIENE PRACTICE.

(ee) ENGAGING IN ANY CONDUCT THAT CONSTITUTES A CRIME AS DEFINED IN TITLE 18, C.R.S., WHICH CONDUCT RELATES TO THE LICENSEE'S PRACTICE AS A DENTIST OR DENTAL HYGIENIST.

(ff) PRACTICING OUTSIDE THE SCOPE OF LEGITIMATE DENTAL OR DENTAL HYGIENE PRACTICE.

(1.5) ~~A revocation or suspension of a license to practice dentistry or dental hygiene~~

~~in any other state, territory, or country for disciplinary reasons shall be deemed to be prima facie evidence of grounds for action under subsection (1) of this section. THE DISCIPLINE OF A LICENSEE TO PRACTICE DENTISTRY IN ANOTHER STATE, TERRITORY, OR COUNTRY SHALL BE DEEMED TO BE UNPROFESSIONAL CONDUCT; EXCEPT THAT THIS SUBSECTION (1.5) SHALL APPLY ONLY TO DISCIPLINE THAT IS BASED UPON AN ACT OR OMISSION IN SUCH OTHER STATE, TERRITORY, OR COUNTRY THAT IS DEFINED SUBSTANTIALLY THE SAME AS UNPROFESSIONAL CONDUCT PURSUANT TO THIS ARTICLE.~~

(3) Complaints relating to the conduct of any dentist or dental hygienist shall be in writing and may be made by any person and, if so made, shall be signed by such person or may be initiated by the board on its own motion. The dentist or dental hygienist complained of shall be given notice ~~by mail~~ OF SUCH COMPLAINT.

(6) (b) Any member of the board or a professional review committee authorized by the board and any witness or consultant appearing before the board or such professional review committee shall be immune from suit in any civil action brought by a licensee who is the subject of a professional review proceeding if such member, witness, or consultant acts in good faith within the scope of the function of the board or such committee, has made a reasonable effort to obtain the facts of the matter as to which ~~he~~ SUCH MEMBER, WITNESS, OR CONSULTANT acts, and acts in the reasonable belief that the action taken by ~~him~~ SUCH MEMBER, WITNESS, OR CONSULTANT is warranted by the facts. The immunity provided by this paragraph (b) shall extend to the members of an authorized professional review committee of a society or an association of persons licensed pursuant to this article and witnesses or consultants appearing before such committee if such committee is authorized to act as provided in subparagraph (II) of paragraph (a) of this subsection (6).

(7) The proceedings and records of a review committee shall be held in confidence and shall not be subject to discovery or introduction into evidence in any civil action against a dentist arising out of the matters which are the subject of evaluation and review by such committee. However, records of closed proceedings and investigations shall be available to the particular licensee under review and the complainant involved in the proceedings. No person who was in attendance at a meeting of such committee shall be permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings of such committee or as to any findings, recommendations, evaluations, opinions, or other actions of such committee or any members thereof. However, information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such civil action merely because they were presented during proceedings of such committee, and any documents or records which have been presented to the review committee by any witness shall be returned to the witness, if requested by ~~him~~ THE WITNESS or if ordered to be produced by a court in any action, with copies thereof to be retained by the committee at its discretion. Any person who testifies before such committee or who is a member of such committee shall not be prevented from testifying as to matters within ~~his~~ SUCH PERSON'S knowledge, but the said witness cannot be asked about ~~his~~ THE WITNESS' testimony before such a committee or opinions formed by ~~him~~ THE WITNESS as a result of said committee hearings.

SECTION 17. 12-35-118 (5) (a), (5) (b), and (5) (c), Colorado Revised Statutes,

1991 Repl. Vol., are amended, and the said 12-35-118 (5) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

12-35-118. Causes for denial of issuance or renewal - suspension or revocation of licenses - other disciplinary action - unprofessional conduct defined - immunity in professional review. (5) (a) If the board has reasonable cause to believe that a person licensed to practice dentistry or dental hygiene in this state is unable to practice dentistry or dental hygiene with reasonable skill and safety to patients, because of a ~~condition described in paragraph (d) of subsection (1) of this section or because of a~~ physical or mental disability OR because of excessive use of any habit-forming drug or substance, the board may require such licensed dentist or dental hygienist to submit to mental or physical examinations by ~~physicians designated by it~~ A QUALIFIED PROFESSIONAL DESIGNATED BY THE BOARD.

(b) Upon the failure of such licensed dentist or dental hygienist to submit to such mental or physical examinations, unless due to circumstances beyond ~~his~~ THE DENTIST'S OR DENTAL HYGIENIST'S control, the board may suspend such dentist's or dental hygienist's license to practice dentistry or dental hygiene in this state until such time as ~~he~~ THE DENTIST OR DENTAL HYGIENIST submits to the examinations.

(c) Every person licensed to practice dentistry or dental hygiene in this state shall be deemed, by so practicing or by applying for a renewal of ~~his~~ THE PERSON'S license to practice dentistry or dental hygiene in this state, to have given ~~his~~ consent to submit to mental or physical examinations when directed in writing by the board, and further to have waived all objections to the admissibility of the examining ~~physician's~~ QUALIFIED PROFESSIONAL'S testimony or examination reports on the ground of privileged communication.

(f) IF AN INVESTIGATION DISCLOSES AN INSTANCE OF CONDUCT WHICH, IN THE OPINION OF THE BOARD, DOES NOT WARRANT FORMAL BOARD ACTION AND SHOULD BE DISMISSED, BUT IN WHICH THE BOARD HAS NOTICED INDICATIONS OF POSSIBLE ERRANT CONDUCT THAT COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED, A CONFIDENTIAL LETTER OF CONCERN SHALL BE SENT TO THE LICENSEE AGAINST WHOM THE COMPLAINT WAS MADE.

(g) THE BOARD MAY INCLUDE IN ANY DISCIPLINARY ORDER THAT ALLOWS THE DENTIST OR DENTAL HYGIENIST TO CONTINUE TO PRACTICE, SUCH CONDITIONS AS THE BOARD MAY DEEM APPROPRIATE TO ASSURE THAT THE DENTIST OR DENTAL HYGIENIST IS PHYSICALLY, MENTALLY, AND OTHERWISE QUALIFIED TO PRACTICE DENTISTRY OR DENTAL HYGIENE IN ACCORDANCE WITH GENERALLY ACCEPTED PROFESSIONAL STANDARDS OF PRACTICE. SUCH AN ORDER MAY INCLUDE ANY OR ALL OF THE FOLLOWING:

(I) SUBMISSION BY THE LICENSEE TO SUCH EXAMINATIONS AS THE BOARD MAY ORDER TO DETERMINE THE LICENSEE'S PHYSICAL OR MENTAL CONDITION OR PROFESSIONAL QUALIFICATIONS;

(II) THE TAKING BY THE LICENSEE OF SUCH THERAPY, COURSES OF TRAINING, OR EDUCATION AS MAY BE NEEDED TO CORRECT DEFICIENCIES FOUND BY THE BOARD OR BY SUCH EXAMINATIONS;

(III) THE REVIEW OR SUPERVISION OF THE LICENSEE'S PRACTICE AS MAY BE NECESSARY TO DETERMINE ITS QUALITY AND TO CORRECT ANY DEFICIENCIES;

(IV) THE IMPOSITION OF RESTRICTIONS ON THE LICENSEE'S PRACTICE TO ASSURE THAT SUCH PRACTICE DOES NOT EXCEED THE LIMITS OF THE LICENSEE'S CAPABILITIES.

SECTION 18. 12-35-119 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-119. Change of address - duplicate licenses and certificates. (1) Every person licensed under this article, upon changing ~~his~~ THE LICENSEE'S place of business, shall furnish the secretary of the board ~~his~~ THE LICENSEE'S new MAILING address within thirty days.

SECTION 19. 12-35-120, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-120. Records to be kept by secretary of the board. The secretary of the board shall keep a record book in which shall be entered the names of all persons to whom licenses and license renewal certificates have been granted under this article, the numbers of such licenses and renewal certificates, the dates of granting the same, and other matters of record. The book so provided and kept shall be a book of records which shall be open to public inspection during ordinary office hours. A copy of any part or all of the book of records certified by the secretary, or a certified statement of the contents of the book of records, shall be prima facie evidence of the same in any court of this state. ~~On July 1 of each even-numbered year, the secretary shall mail to each member of the board a complete list of licensees, corrected to the previous January 1, including the name, license number, and business address of each licensee entitled to practice in this state, and~~ Upon payment of a fee to cover the cost of duplication, the secretary shall furnish the list of licensees to any person.

SECTION 20. 12-35-122, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-122. Dentists may prescribe drugs, etc. A dentist has the right to prescribe such drugs or medicine, perform such surgical operations, administer such general or local anesthetics, and use such appliances as may be necessary to the proper practice of dentistry. A DENTIST SHALL NOT PRESCRIBE, DISTRIBUTE, OR GIVE TO A FAMILY MEMBER OR HIMSELF OR HERSELF ANY HABIT-FORMING DRUG, AS DEFINED IN SECTION 12-22-102 (13), OR ANY CONTROLLED SUBSTANCE, AS DEFINED IN PART 2 OF ARTICLE 18 OF TITLE 18, C.R.S., OR AS CONTAINED IN SCHEDULE II OF 21 U.S.C. SEC. 812, OTHER THAN IN THE COURSE OF LEGITIMATE DENTAL PRACTICE AND PURSUANT TO THE RULES PROMULGATED BY THE BOARD REGARDING CONTROLLED SUBSTANCE RECORDKEEPING.

SECTION 21. 12-35-123 (1), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-35-123. Dental hygienists - application fees. (1) Every person who desires to qualify for practice as a dental hygienist within this state shall file with the secretary of the board ~~his~~ A written application for a license, on which application ~~he~~

SUCH APPLICANT shall list any act, the commission of which would be grounds for disciplinary action under section 12-35-118 against a licensed dental hygienist, along with an explanation of the circumstances of such act, and shall furnish satisfactory proof ~~that he is a graduate~~ of GRADUATION FROM a school of dental hygiene which, at the time of the applicant's graduation, was accredited by ~~the council on dental education of the American dental association~~ A NATIONALLY RECOGNIZED ACCREDITING AGENCY. Such application must be on the form prescribed and furnished by the board, verified by the oath of the applicant, and accompanied by a fee established pursuant to section 24-34-105, C.R.S.

SECTION 22. 12-35-124 (1), (2), (4) (b) (I), and (5), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended to read:

12-35-124. Examinations - license. (1) ~~When the application and accompanying proof as required by section 12-35-123 are found satisfactory, the board shall notify the applicant to submit to an examination at a time and place to be fixed by the board. Such examination shall be written, theoretical, practical, and clinical. The examination may be given at any accredited dental school or other facility approved by the board within or without the state of Colorado and may be given on a regional basis. Every applicant, however, must be examined for knowledge of the provisions of this article~~ EVERY APPLICANT FOR DENTAL HYGIENE LICENSURE SHALL SUBMIT TO THE BOARD, PROOF OF HAVING SUCCESSFULLY COMPLETED THE FOLLOWING:

(a) AN EXAMINATION ADMINISTERED BY THE JOINT COMMISSION ON NATIONAL DENTAL EXAMINATIONS;

(b) AN EXAMINATION DESIGNED TO TEST THE APPLICANT'S CLINICAL SKILLS AND KNOWLEDGE, WHICH MAY BE ADMINISTERED BY A TESTING AGENCY OF WHICH THE BOARD IS A PARTICIPATING MEMBER;

(c) AN EXAMINATION ON THE PROVISIONS OF THIS ARTICLE.

(2) All examination papers ~~with the grades affixed thereto~~, RESULTS REQUIRED BY THE BOARD shall be filed with the ~~secretary of the board~~ and kept for reference ~~and inspection~~ for a period of not less than two years. Should ~~the~~ AN applicant successfully complete such examinations ~~the~~ AND BE OTHERWISE QUALIFIED, SUCH applicant shall be granted a license by the board ~~which shall be evidence of the applicant's right to practice as a dental hygienist in this state~~ AND SHALL BE ISSUED A LICENSE CERTIFICATE SIGNED BY THE OFFICERS OF THE BOARD.

(4) (b) The board shall issue a license to an applicant duly licensed as a dental hygienist in another state or territory of the United States who has submitted credentials and qualifications for licensure in Colorado. Such credentials and qualifications shall include:

(I) ~~Evidence of all current, valid, and active health care licenses, including dental hygiene licenses, held by the applicant~~ VERIFICATION OF LICENSURE FROM ANY OTHER JURISDICTION WHERE THE APPLICANT HAS HELD A DENTAL HYGIENE OR OTHER HEALTH CARE LICENSE;

(5) ~~The board may accept, in lieu of examination upon theoretical subjects, the~~

~~certificate of the council of the national board of dental examiners of the American dental association which evidences that the applicant successfully passed the examinations administered by the council for dental hygiene.~~

SECTION 23. 12-35-125, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-125. Tasks authorized to be performed by dental auxiliaries or dental hygienists. (1) The responsibility for diagnosis, treatment planning, or the prescription of therapeutic measures in the practice of dentistry shall remain with a licensed dentist and may not be assigned to any dental hygienist. ~~or dental auxiliary.~~ No dental procedure that will contribute to or result in an irremediable alteration of the oral anatomy may be assigned to anyone other than a licensed dentist.

(2) (a) Except as provided in subsection (1) of this section, a dental hygienist may perform any dental task or procedure assigned to ~~him~~ THE HYGIENIST by a licensed dentist that does not require the professional skill of a licensed dentist but only under the general supervision of a licensed dentist ~~in the office of a licensed dentist~~ ON THE PREMISES, or as provided elsewhere in this section.

(b) and (c) Repealed, L. 86, p. 636, § 20, effective July 1, 1986.

~~(3) Except as provided in subsection (1) of this section, a dental auxiliary may perform any dental tasks and procedures, whether constituting dental hygiene pursuant to section 12-35-122.5 or not, except the administration of local anesthesia, scaling, root planing, and soft tissue curettage, assigned to him by a licensed dentist that do not require the professional skill of a licensed dentist but only under the personal direction of the licensed dentist. Any dental auxiliary who performs any task set forth in subsection (4), (5), or (6) of this section may perform such task under the general supervision of a licensed dentist.~~

(4) (a) A DENTAL AUXILIARY SHALL NOT PERFORM THE FOLLOWING TASKS:

(I) DIAGNOSIS;

(II) TREATMENT PLANNING;

(III) PRESCRIPTION OF THERAPEUTIC MEASURES;

(IV) ANY PROCEDURE THAT CONTRIBUTES TO OR RESULTS IN AN IRREMEDEABLE ALTERATION OF THE ORAL ANATOMY;

(V) ADMINISTRATION OF LOCAL ANESTHESIA;

(VI) SCALING (SUPRA AND SUB-GINGIVAL), AS IT PERTAINS TO THE PRACTICE OF DENTAL HYGIENE;

(VII) ROOT PLANING;

(VIII) SOFT TISSUE CURETTAGE;

(IX) PERIODONTAL PROBING.

(b) AN AUXILIARY MAY PERFORM THE FOLLOWING TASKS UNDER THE PERSONAL DIRECTION OF A LICENSED DENTIST:

(I) SMOOTHING AND POLISHING NATURAL AND RESTORED TOOTH SURFACES;

(II) PROVISION OF PREVENTIVE MEASURES INCLUDING THE APPLICATION OF FLUORIDES AND OTHER RECOGNIZED TOPICAL AGENTS FOR THE PREVENTION OF ORAL DISEASE;

(III) GATHERING AND ASSEMBLING INFORMATION INCLUDING BUT NOT LIMITED TO FACT-FINDING AND PATIENT HISTORY, ORAL INSPECTION, AND DENTAL AND PERIODONTAL CHARTING;

(IV) ADMINISTERING TOPICAL ANESTHETIC TO A PATIENT IN THE COURSE OF PROVIDING DENTAL CARE;

(V) ANY OTHER TASK OR PROCEDURE THAT DOES NOT REQUIRE THE PROFESSIONAL SKILL OF A LICENSED DENTIST.

(c) AN AUXILIARY MAY, UNDER THE DIRECT SUPERVISION OF A LICENSED DENTIST IN ACCORDANCE WITH RULES PROMULGATED BY THE BOARD, ADMINISTER AND MONITOR THE USE OF NITROUS OXIDE ON A PATIENT.

~~(a)~~ (d) (I) A dental auxiliary may perform intraoral and extraoral tasks and procedures necessary for the construction of a full denture UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST. These tasks and procedures shall include:

~~(A)~~ (A) Taking of preliminary and final impressions;

~~(B)~~ (B) Bite-registration and determination of vertical dimensions;

~~(C)~~ (C) Tooth selection;

~~(D)~~ (D) A preliminary try-in of the wax-up trial denture prior to and subject to a try-in and approval in writing of the wax-up trial denture by the licensed dentist;

~~(E)~~ (E) Denture adjustments that involve the periphery, occlusal, or tissue-bearing surfaces of the denture prior to the final examination of the denture pursuant to subsection (5) of this section.

~~(b)~~ (II) The tasks and procedures in ~~paragraph (a) of this subsection (4)~~ SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) shall be performed in the regularly announced office location of a licensed practicing dentist, and ~~he~~ THE DENTIST shall be personally liable for all treatment rendered to the patient. No licensed dentist may maintain or utilize more than two announced office locations in which auxiliary personnel are utilized to perform tasks and procedures authorized in ~~paragraph (a) of this subsection (4)~~ SUBPARAGRAPH (I) OF THIS PARAGRAPH (d). A dental auxiliary performing these tasks and procedures shall be properly identified as a dental auxiliary. No dentist shall utilize more than the number of dental auxiliaries ~~he~~ THE

DENTIST can reasonably supervise.

~~(c)~~ (III) Prior to any work being performed pursuant to ~~paragraph (a) of this subsection (4)~~ SUBPARAGRAPH (I) OF THIS PARAGRAPH (d), the patient shall first be examined by the treating dentist licensed to practice in this state who shall certify that the patient has no pathologic condition that requires surgical correction or other treatment prior to complete denture service.

(5) At the time of a preliminary try-in of a wax-up trial denture as provided by ~~subparagraph (IV) of paragraph (a) of subsection (4)~~ SUB-SUBPARAGRAPH (D) OF SUBPARAGRAPH (I) OF PARAGRAPH (d) OF SUBSECTION (4) of this section, the dental auxiliary shall advise the patient that the dentist will examine the wax-up trial denture and make a vertical and occlusal check and that, within one month after delivery of the denture, the patient shall be examined by the licensed dentist for a certification in the patient chart that the denture is satisfactory. ~~Both examinations shall be included in the dentist's fee.~~

(6) In addition to the procedure authorized in this section, a dental auxiliary may make repairs and relines of dentures pursuant to a dental laboratory work order signed by a licensed dentist.

(7) The board may make such reasonable rules ~~and regulations~~ as may be necessary to implement and enforce the provisions of this section.

SECTION 24. 12-35-128, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-128. Use of forged or invalid diploma or certificate. It is unlawful for any person to use or attempt to use as his OR HER own a diploma of a dental college or school, or a license or license renewal certificate of any other person, or to use or attempt to use a forged diploma, license, license renewal certificate, or identification. IT IS ALSO UNLAWFUL FOR ANY PERSON TO FILE WITH THE BOARD A FORGED DOCUMENT, WHICH DOCUMENT HAS BEEN REQUIRED OR REQUESTED BY THE BOARD FOR USE IN ASSESSING AN APPLICANT'S QUALIFICATIONS FOR LICENSURE.

SECTION 25. 12-35-130, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-130. Employment of unlicensed person by dentist - penalty. (1) Every duly licensed ~~and registered~~ dentist who uses the services of any unlicensed person for the purpose of constructing, altering, repairing, or duplicating any denture, plate, partial plate, bridge, splint, or orthodontic or prosthetic appliance shall be required to furnish such unlicensed person with a written laboratory work order in such form as shall be approved by the board, which form shall be dated and signed by such dentist for each separate and individual piece of work. Said laboratory work order shall be made in duplicate form, the duplicate copy to be retained by the dentist in a permanent file for a period of two years and the original copy to be retained in a permanent file for a period of two years by the unlicensed person to whom it was furnished, and both of such permanent files shall be open to inspection at any reasonable time by the board or its duly constituted agent.

(2) Failure of the dentist to keep such permanent records of laboratory work orders shall subject such dentist to ~~suspension or revocation of his license to practice dentistry~~ DISCIPLINARY ACTION AS DEEMED APPROPRIATE BY THE BOARD.

(3) Failure of any such unlicensed person to have in ~~his~~ THE PERSON'S possession a laboratory work order signed by a licensed dentist, or a written work order signed by the initial recipient of the laboratory work order which is identifiable with each denture, plate, partial plate, bridge, splint, or orthodontic or prosthetic appliance in the possession of such unlicensed person, shall be prima facie evidence of a violation of this section.

SECTION 26. 12-35-131, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-131. Soliciting or advertisements by unlicensed persons. It is unlawful for any unlicensed person, corporation, entity, partnership, or group of persons to solicit or advertise ~~by mail, card, newspaper, pamphlet, radio, or otherwise~~ to the general public to construct, reproduce, or repair prosthetic dentures, bridges, plates, or other appliances to be used or worn as substitutes for natural teeth.

SECTION 27. 12-35-134 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-134. Independent advertising or marketing agent - injunctive proceedings. (1) Notwithstanding the provisions of section 12-35-118 (1) (s), a licensed dentist or dental hygienist may employ an independent advertising or marketing agent to provide advertising or marketing services on ~~his~~ THE DENTIST'S OR DENTAL HYGIENIST'S behalf, and the same shall not be considered unprofessional conduct.

SECTION 28. Article 35 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

12-35-136. Retired licenses. (1) ANY PERSON LICENSED TO PRACTICE DENTISTRY OR DENTAL HYGIENE PURSUANT TO THIS ARTICLE MAY APPLY TO THE BOARD FOR RETIRED LICENSURE STATUS. ANY SUCH APPLICATION SHALL BE IN THE FORM AND MANNER DESIGNATED BY THE BOARD. THE BOARD MAY GRANT SUCH STATUS BY ISSUING A RETIRED LICENSE OR IT MAY DENY THE APPLICATION IF THE LICENSEE HAS BEEN DISCIPLINED FOR ANY OF THE CAUSES SET FORTH IN SECTION 12-35-118.

(2) ANY PERSON APPLYING FOR A LICENSE UNDER THIS SECTION SHALL:

(a) PROVIDE AN AFFIDAVIT TO THE BOARD STATING THAT, AFTER A DATE CERTAIN, THE APPLICANT SHALL NOT PRACTICE DENTISTRY OR DENTAL HYGIENE, SHALL NO LONGER EARN INCOME AS A DENTIST OR DENTAL HYGIENE ADMINISTRATOR OR CONSULTANT, OR SHALL NOT PERFORM ANY ACTIVITY THAT CONSTITUTES PRACTICING DENTISTRY OR DENTAL HYGIENE PURSUANT TO SECTIONS 12-35-110, 12-35-122.5, AND 12-35-122.6, UNLESS SAID APPLICANT IS ISSUED A LICENSE TO PRACTICE DENTISTRY OR DENTAL HYGIENE PURSUANT TO SUBSECTION (5) OF THIS SECTION;

(b) PAY THE LICENSE FEE AUTHORIZED BY SECTION 24-34-105, C.R.S., WHICH FEE

SHALL NOT EXCEED FIFTY DOLLARS.

(3) THE RETIRED STATUS OF A LICENSEE SHALL BE PLAINLY INDICATED ON THE FACE OF ANY RETIRED LICENSE CERTIFICATE ISSUED UNDER THIS SECTION.

(4) THE BOARD IS AUTHORIZED TO CONDUCT DISCIPLINARY PROCEEDINGS PURSUANT TO SECTION 12-35-117 OR 12-35-118 AGAINST ANY PERSON LICENSED UNDER THIS SECTION FOR AN ACT COMMITTED WHILE SUCH PERSON WAS LICENSED PURSUANT TO THIS ARTICLE.

(5) ANY PERSON LICENSED UNDER THIS SECTION MAY APPLY TO THE BOARD FOR A RETURN TO ACTIVE LICENSURE STATUS BY FILING AN APPLICATION IN THE FORM AND MANNER THE BOARD SHALL DESIGNATE PURSUANT TO SECTION 12-35-113, PAYING THE APPROPRIATE LICENSE FEE ESTABLISHED PURSUANT TO SECTION 24-34-105, C.R.S., AND MEETING THE FINANCIAL RESPONSIBILITY REQUIREMENTS ISSUED BY THE BOARD PURSUANT TO SECTION 13-64-301 (1), C.R.S. THE BOARD MAY APPROVE SUCH APPLICATION AND ISSUE A LICENSE TO PRACTICE DENTISTRY OR DENTAL HYGIENE OR MAY DENY THE APPLICATION IF THE LICENSEE HAS BEEN DISCIPLINED FOR ANY OF THE CAUSES SET FORTH IN SECTION 12-35-118.

(6) A DENTIST IN RETIRED STATUS MAY PROVIDE DENTAL SERVICES ON A VOLUNTARY BASIS TO THE INDIGENT, IF SUCH SERVICES ARE PROVIDED ON A LIMITED BASIS AND NO FEE IS CHARGED. SUCH A DENTIST SHALL HAVE IMMUNITY FOR VOLUNTARY CARE PROVIDED PURSUANT TO THIS SUBSECTION (6).

SECTION 29. 24-34-104 (25) (a), Colorado Revised Statutes, 1988 Repl. Vol., is amended, and the said 24-34-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25) The following boards in the division of registrations shall terminate on July 1, 1996:

(a) ~~The state board of dental examiners, created by article 35 of title 12, C.R.S.;~~

(32.5) THE FOLLOWING BOARDS SHALL TERMINATE ON JULY 1, 2003: THE STATE BOARD OF DENTAL EXAMINERS, CREATED BY ARTICLE 35 OF TITLE 12, C.R.S.

SECTION 30. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of registrations cash fund not otherwise appropriated, to the department of regulatory agencies, for the fiscal year beginning July 1, 1996, the sum of thirteen thousand eight hundred eighty-six dollars (\$13,886), or so much thereof as may be necessary, for the implementation of this act.

SECTION 31. Effective date - applicability. This act shall take effect July 1, 1996, and shall apply to acts committed on or after said date.

SECTION 32. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 1996