

- SUBJECT:** Creating a temporary license for dentists practicing charity care
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 11 ayes — Kolkhorst, Naishtat, Coleman, Collier, Cortez, S. Davis, Guerra, S. King, Laubenberg, J.D. Sheffield, Zedler
0 nays
- WITNESSES:** For — Kent Macaulay, Texas Dental Association; (*Registered, but did not testify*: William Bingham, Texas Dental Association; Karen R. Johnson, United Ways of Texas; David Mintz, Texas Academy of General Dentistry; Tyler Rudd, Texas Academy of Pediatric Dentistry; Bradford Shields, Texas Coalition of Dental Service Organizations)
Against — None
On — Glenn Parker, Texas State Board of Dental Examiners
- BACKGROUND:** Title 22, Texas Administrative Code, §101.7(c)(1)(A) defines volunteer charity care as “the direct provision of dental services to indigent or critical need populations within the state of Texas, without compensation.”
Occupations Code, sec. 256.101 governs the issuance of dental licenses to out-of-state applicants. A dentist seeking such a license must meet several conditions, including that he or she:
- not have been the subject of a final or pending disciplinary action in any jurisdiction;
 - have graduated from a dental school accredited by American Dental Association and approved by the Texas State Board of Dental Examiners (TSBDE); and
 - have passed a national, state board-recognized examination relating to dentistry.
- DIGEST:** CSHB 1491 would create a temporary dental license for voluntary charity care. In addition to meeting specified requirements under Occupations Code, sec. 256.101, a person eligible to receive such a license would be a

reputable dentist who:

- had retired in good standing in Texas no more than two years before applying for the license;
- had retired in good standing in another state with similar licensing requirements, as determined by the TSBDE, no more than two years before applying for the license; or
- currently practiced and was licensed in another state with substantially similar requirements, as determined by the TSBDE.

Dentists holding temporary licenses could practice only voluntary charity care in a specified geographic area and for a specified period of time.

The TSBDE would adopt rules for the implementation of this temporary license by January 1, 2014, and would take disciplinary action against a dentist with a temporary license in the same manner as against a Texas dentist with a regular license.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

**SUPPORTERS
SAY:**

CSHB 1491 would create a path for recently retired and/or out-of-state dentists in good standing to give free dental care to the neediest Texans. It would allow Texas charities offering free dental services to solicit the help of dentists in neighboring states. Dentists from across the country could volunteer in Texas following a natural disaster or other emergency. The bill also would enable dentists attending national conferences in Texas to volunteer in the local community.

At present, no practical process exists to allow dentists from outside the state or who have recently retired to perform charitable work for a short period of time. The only exceptions for out-of-state licensees are a temporary license lasting fewer than two weeks to practice only in an educational context, or a temporary license costing \$700 for out-of-state dentists as a precursor to a longer-term license. Neither of these licenses easily enables out-of-state or retired dentists to practice in the short term for charitable purposes.

Under current law, out-of-state dentists who wish to perform charity work but do not hold a Texas license are confined to duties that could be

performed by volunteers with considerably less training. The bill would facilitate the process of enabling qualified, volunteer dentists from other states to practice the full scope of dentistry, including making diagnoses, taking X-rays, and performing dental procedures.

CSHB 1491 would be limited in scope, applying only to dental work without remuneration and not to current, practicing Texas dentists. All other states have licensing requirements similar to those in Texas, including graduation from an accredited dental school and successful completion of a licensing exam. If another state changed its requirements, TSBDE could refuse to license applicants from that state.

Temporary, charity-care licenses for dentists are not new or unusual. Texas dentists may now take advantage of similar, temporary licenses for charitable work in 39 other states. Licenses for retired doctors and dentists in Texas already exist as well.

CSHB 1491 would require TSBDE to adopt rules and take disciplinary action when necessary. The board would adopt rules balancing the patient's right to recourse in the case of malpractice against the high cost of malpractice insurance deductibles for dentists. It also would prescribe penalties for dentists holding temporary, charity-care licenses who failed to meet the requisite standard of care.

Liability coverage would exist for dentists working under temporary, charity-care licenses. The State Charitable Immunity and Liability Act provides immunity from liability for volunteer health care providers, including practicing or retired dentists, who volunteer without compensation on behalf of a charitable organization. Additionally, many charitable events carry umbrella liability policies, and some dentists carry office policies extending liability coverage to volunteer work.

Limiting to two years the period after retirement in which dentists could apply for a temporary, charity-care license would ensure such dentists had kept up with continuing education and changing technology. It also would keep recently practicing dentists in the pool of volunteers.

**OPPONENTS
SAY:**

CSHB 1491 inappropriately would create a special dispensation for dentists delivering charity care, exempting them from the same rigorous testing and vetting procedures other Texas dentists must complete. Dentists who serve the state's poorest residents should be held to exactly

the same standard as those serving the rest of the population. At a minimum, dentists holding temporary, charity-care licenses should be required to notify their patients that they did not have a standard Texas dentistry license.

The bill fails to answer questions about how patients would seek recourse in cases of malpractice and does not specify what types of insurance dentists would need to cover their liability. The cost of deductibles for malpractice insurance can be prohibitive, especially for retired dentists. The bill also does not specify how the TSBDE could effectively prosecute out-of-state dentists who did not meet the Texas standard of care because revoking their permanent dentistry license is not within the board's authority.

The proposed two-year deadline for dentists to apply for this license after retirement is arbitrary. It could prevent those still fit to practice from contributing to charitable causes, while making eligible some dentists who should not be practicing anymore.

NOTES:

The committee substitute differs from HB 1491 as filed in that it would:

- make an out-of-state, retired dentist eligible for a temporary, charity-care license if the licensing requirements of the other state were substantially similar to those in Texas;
- expand the license eligibility of dentists who retired in good standing to include Texas dentists as well as those from out of state; and
- specify that the TSBDE could take disciplinary action against dentists holding temporary, charity-care licenses.

The identical companion bill, SB 1130 by Schwertner, was reported favorably as substituted by the Senate Health and Human Services Committee on April 11 and was recommended for the Local and Uncontested Calendar.