

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 877  
By: Sibley  
Health & Human Services  
4-11-97  
Committee Report (Substituted)

### **DIGEST**

Currently, the State Board of Dental Examiners (board) was reestablished by the passage of S.B. 18 during the 74th Legislature in order to govern Chapter 9, Title 71, V.T.C.S., the Dental Practices Act. The law added by S.B. 18 is unclear in some sections. This bill would clarify such provisions and revise various regulations of the practice of dentistry governed by the board under Chapter 9, Title 71, V.T.C.S.

### **PURPOSE**

As proposed, C.S.S.B. 877 revises various regulations of the practice of dentistry enforced by the State Board of Dental Examiners.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the State Board of Dental Examiners in SECTIONS 3 and 9 (Articles 4545a-(a)(3) and (8), V.T.C.S., and Article 4548k-1(a), V.T.C.S.) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 1(a), Article 4544, V.T.C.S., to delete text requiring the examination of all applicants for a license to practice dentistry in this state to be given either orally or in writing, or by giving a practical demonstration of the applicant's skill, or by any combination of such methods or subjects as the State Board of Dental Examiners (board) may in its discretion require.

SECTION 2. Amends Section 4545, V.T.C.S., to require each applicant for a license to practice dentistry in this state to be no less than 21 years of age and to present present evidence of good moral character and proof of graduation from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association (commission); or proof of graduation from a dental school that is not accredited by the commission and successful completion of training in an American Dental Association approved specialty in an education program accredited by the commission and that consists of at least two years of training as specified by the Council on Dental Education. Deletes text setting forth the concept of a reputable dental college.

SECTION 3. Amends Article 4545a, V.T.C.S., as follows:

Art. 4545a. New heading: LICENSING BY CREDENTIALS. Requires the board to grant a license to practice dentistry or dental hygiene to any reputable dentist or dental hygienist who, among other items, has graduated from a dental or dental hygiene school accredited by the commission and approved by the board according to rules established by the board; has practiced dentistry or dental hygiene, among other options, as a dental educator at a dental school or dental hygiene school accredited by the commission for the minimum of five years immediately preceding the date of applying for the license; and has met any additional criteria established by board rule. Deletes text requiring the board to grant a license to one who has practiced dentistry or dental hygiene for two years of obliged service in the state under the National Health Service Corps or other federal scholarship or loan repayment program. Deletes Section 2, relating to licensing of foreign trained dentists. Makes conforming changes.

SECTION 4. Amends Article 4548c, V.T.C.S., to authorize, rather than require, that no person whose license to practice dentistry in this state has been revoked by any district court of this state or by the board can practice or attempt to practice dentistry or dental surgery in this state after such license has been revoked. Makes a conforming change.

SECTION 5. Amends Article 4548e, V.T.C.S., to authorize any person, corporation, company, or association to use a corporation, company, association, or trade name. Requires any advertisement by the corporation, company, association, or trade name to include prominently the name of at least one dentist practicing under such name. Requires the person, corporation, company, or association to file with the board a list of each dentist who practices under the name and a list of each trade name used if the trade name is different from the corporation, company, or association name. Requires a list under this section to be updated by the board no later than the 30th day after the date of the change. Deletes text making it unlawful to use certain trade names.

SECTION 6. Amends Section 1, Article 4548h, V.T.C.S., by amending Subsections (f)-(j) and by adding Subsections (k)-(l), as follows:

(f) Requires a complaint received under this article to be filed with the board and reviewed to determine jurisdiction. Requires the board, if it has jurisdiction, to require an investigation of the complaint to determine the facts concerning the complaint.

(g)-(k) Makes conforming changes.

(l) Authorizes the board to only consider a complaint that is filed with the board no later than the fourth anniversary of the date the complained-of act occurred or the date the complaint discovered, or in the exercise of reasonable diligence should have discovered, the occurrence of the complained-of act.

SECTION 7. Amends Sections 2 and 3, Article 4548h, V.T.C.S., as follows:

Sec. 2. Requires the board to revoke or suspend, rather than revoke, cancel, or suspend, any license or licenses that may have been issued by such board, impose a fine on a license holder, place on probation with conditions a person whose license has been suspended, or reprimand a licensee under certain circumstances. Requires notice of hearing issued by the board under this article to be made in writing and to set out the alleged violations of such statutes or rules. Deletes text referring to complaints to be considered under this article. Provides that all proceedings under this section are subject to Chapter 2001, Government Code. Deletes text referring to complaints considered by the board. Makes conforming changes.

Sec. 3. Provides that a person aggrieved by a ruling, order, or decision of the board under this article has the right to appeal as provided by Chapter 2001, Government Code. Deletes text relating to the right to appeal in certain courts, the processing of the appeal by certain courts, and the staying of enforcement of penalty or punishment during the appeals process. Makes conforming changes.

SECTION 8. Amends Article 4548i(b), V.T.C.S., to provide that any person who violates a provision of Chapter 9, Title 71, V.T.C.S., (Dental Practice Act), is liable to the state for a civil penalty in an amount not to exceed \$5,000, rather than \$2,500.

SECTION 9. Amends Chapter 9, Title 71, V.T.C.S., by adding Article 4548k, as follows:

Art. 4548k. CONTRACTUAL AND ORGANIZATIONAL AGREEMENTS

Sec. 1. Requires a certain person or organization to report to the board, under rules adopted by the board, certain information. Provides that a person or organization practicing dentistry that has one or more dentists practicing with or under the person or organization is responsible for all professional acts done under the name of the person or organization. Provides that this article does not affect an individual license holder's responsibilities and rights under this chapter.

Sec. 2. Prohibits a statute relating to the practice of dentistry in this state from being construed to prohibit a licensed dentist from maintaining any number of offices in this state under certain conditions.

SECTION 10. Amends Section 1, Article 4549, V.T.C.S., to delete reference to a felony involving moral turpitude.

SECTION 11. Amends Section 2, Article 4549, V.T.C.S., to authorize the board to have jurisdiction and authority, among other actions, to impose a fine on a person licensed under this chapter or to place on probation with conditions a person whose license or certificate is suspended, for, among other causes, that the license holder having been or is guilty of, among other actions, failure to treat a patient according to the standard of care in the practice of dentistry or dental hygiene.

SECTION 12. Amends Section 3(a), Article 4549, V.T.C.S., to provide that if the board proposes to refuse to examine a person, to suspend or revoke a license, to impose a fine, to place on probation a person whose license has been suspended, or to reprimand a license holder, the person is entitled to a hearing under Chapter 2001, Government Code, rather than before the board.

SECTION 13. Amends Article 4549-1, V.T.C.S., to require the board, under certain circumstances and in accordance with Chapter 2001, Government Code, in which the fact of conviction is determined, to suspend the person's license. Makes a standard recodification change.

SECTION 14. Amends Article 4550, V.T.C.S., to require the board to keep records in which shall be registered the name and residence and, rather than or, place of business of all persons authorized under this law to practice dentistry, dental hygiene and such other professions or businesses under its jurisdiction as provided by law. Requires each dentist, dental hygienist, dental laboratory, and dental technician registered with the board, to timely notify the board of any change of address of the place of business of such dentist, hygienist, laboratory, or technician; and any change of employers by such dentist, hygienist, the laboratory, or technician, and any change of owners of the laboratory.

SECTION 15. Amends Article 4551(b), to delete text prohibiting the board from setting a fee at an amount less than the amount of that fee on September 1, 1993.

SECTION 16. Amends Article 4551a, V.T.C.S., to require any person to be regarded as practicing dentistry within the meaning of this chapter to include, among others, a person who uses or permits to be used for himself or for any person any letters, titles, terms or descriptive matter, including use of the terms "denturist" or "denturism," which represents him as being able to do certain dental oriented work; and a person who holds himself or herself out to be a denturist or uses another title that is intended to convey to the public that the services offered by the person are included within the practice of dentistry.

SECTION 17. Amends Article 4551b, V.T.C.S., to prohibit the definition of dentistry as contained in Chapter 9, Title 71, V.T.C.S., from applying to, among others, members of the faculty of a reputable dental or dental hygiene college or school where such faculty members perform their services for the sole benefit of such school or college.

SECTION 18. Amends Section 2, Article 4551e, V.T.C.S., to require a dental hygienist to be not less than 18 years of age and a graduate of an accredited high school or hold a certificate of high school equivalency (GED) and to be a graduate of a recognized, rather than recognized and accredited, school or college of dentistry or dental hygiene accredited by the commission and approved by the board. Deletes the previous text relating to qualification of a dental hygienist.

SECTION 19. Amends Section 5(a), Article 4551e, V.T.C.S., to make a conforming change.

SECTION 20. Amends Articles 4551e-1(a) and (b), V.T.C.S., to authorize a dental assistant who is not professionally licensed to be employed by and work in the office of a licensed and practicing dentist and perform one or more delegated dental acts under the direct supervision, direction, and responsibility of such dentist. Provides that direct supervision, direction, and responsibility, as used in this article, means that a dentist employing a dental assistant or dentist in charge of a dental assistant is physically present in the dental office when a dental assistant performs a delegated dental act. Prohibits a dentist from delegating the authority to administer a local anesthetic agent, inhalation sedative agent, parenteral sedative agent, or general anesthetic agent to an individual not licensed as a dentist with a permit issued by the board for the procedure being performed, if a permit is required; as a certified registered nurse anesthetist licensed by the Texas State Board of Nurse Examiners; or as a physician anesthesiologist licensed by the Texas State Board of Medical Examiners. Makes conforming and nonsubstantive changes.

SECTION 21. Amends Section 6(b), Article 4551f, V.T.C.S., to require an applicant, as a condition for the renewal of a dental laboratory registration, to provide evidence satisfactory to the board that at least one employee working on the premises of the dental laboratory has completed at least 12, rather than 10, hours of continuing education during the registration period; or is a certified technician.

SECTION 22. Amends Section 8, Article 4551f, V.T.C.S., by amending Subsection (a) and by adding Subsection (g), as follows:

(a) Authorizes the board to refuse to issue a certificate of registration, to suspend or revoke a certification, to impose a fine, or to probate all or part of the suspension if, after a hearing, the board finds that the person applying for or holding a certificate of registration has violated or aided another person in violating any law regulating the practice of dentistry or has required or allowed a person under the direction or control of the applicant or certificate holder to violate any law regulating the practice of dentistry.

(g) Provides that for the purposes of Subsection (a), a person applying for or holding a certificate of registration includes a person having 20 percent or greater ownership interest or is the general partner or managing partner in a dental laboratory that is registered or for which an application for registration has been filed.

SECTION 23. Amends Article 4551n, V.T.C.S., to authorize a dentist licensed by the board to be employed by or contract with a governmental entity providing dental services under federal or state law. Authorizes a dentist licensed by the board to be employed by or contract with an organization that meets the requirements of Section 1(a)(1) of this article if the organization is approved by the board as an organization that provides services to underserved populations for no fee or a reduced fee. Makes conforming changes.

SECTION 24. Amends Section 467.004(a), V.T.C.S., to authorize a licensing or disciplinary authority to add a surcharge of not more than \$10, rather than \$5, to its license or license renewal fee to fund an approved peer assistance program.

SECTION 25. Amends Section 467.0041(b), Health and Safety Code, to make a conforming change.

SECTION 26. Repealers: Section 4, Article 4548h, V.T.C.S., and Section 2A(f), Article 4550a, V.T.C.S.

SECTION 27. (a) Effective date: September 1, 1997.

(b) Requires the board to adopt rules required under this Act by December 1, 1997.

(c) Makes application of this Act prospective.

SECTION 28. Emergency clause.

## **SUMMARY OF COMMITTEE CHANGES**

### **SECTION 2.**

Amends Article 4545, V.T.C.S., to revise changes relating to qualifications of applicants.

### **SECTION 3.**

Amends Article 4545a, V.T.C.S., to revise changes relating to licensing by credentials.

### **SECTION 6.**

Omits revisions to Article 4545g, V.T.C.S., relating to unprofessional conduct. Amends Section 1, Article 4548h, V.T.C.S., previously set forth in SECTION 7. Revises proposed Subsection (f), omits proposed Subsection (g), and redesignates proposed Subsection (m) as Subsection (l). Redesignates SECTIONS 8-19 as SECTIONS 7-18.

### **SECTION 10.**

Amends Section 1, Article 4549, V.T.C.S., to make a nonsubstantive change.

### **SECTION 11.**

Amends Section 2, Article 4549, V.T.C.S., to revise changes to Subsection (c).

### **SECTION 14.**

Amends Article 4550, V.T.C.S., to revise changes relating to records of the board.

### **SECTION 16.**

Amends Article 4551a, V.T.C.S., to revise proposed Section (9).

### **SECTION 19.**

Omits revisions to Section 4A(d), Article 4551e, V.T.C.S., relating to certain reimbursements. Originally set forth in SECTION 20. Redesignates SECTIONS 21-22 as SECTION 19-20.

### **SECTION 20.**

Amends Article 4551e-1, V.T.C.S., to revise changes to Subsection (a), relating to a dental assistant who is not professionally licensed in this state.

### **SECTION 21.**

Adds Article 4551f, V.T.C.S., to propose changes to Section 6(b), relating to condition for the renewal of a dental laboratory registration. Redesignates SECTIONS 23-26 as SECTIONS 22-25.

### **SECTION 22.**

Amends Section 8, Article 4551f, V.T.C.S., to revise changes to Subsection (a) and to revise proposed Subsection (g), relating to violations of any law regulating the practice of dentistry.

### **SECTION 23.**

Amends Article 4551n, V.T.C.S., to make nonsubstantive changes.

## SECTION 26.

Omits revisions to Article 2.12, Code of Criminal Procedure, relating to peace officers. Originally set forth in SECTION 27. Redesignates SECTIONS 28-30 as SECTIONS 26-28. Omits repealer of Section 2, Article 4544, V.T.C.S. (Foreign and Nonaccredited Dental School Graduates).