

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 964
By: Lucio
Health Services
4/7/1999
Committee Report (Substituted)

DIGEST

Currently, Texas law provides for certain regulations for dentists and dental hygienists. C.S.S.B. 964 would amend those regulations.

PURPOSE

As proposed, C.S.S.B. 964 regulates dentists and dental hygienists.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Board of Dental Examiners in SECTION 20 (Article 4551a(8) V.T.C.S.) and SECTION 26 (Section 5A(b), Chapter 475 Article 4551e, V.T.C.S) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 3(a) and (b), Article 4543a, V.T.C.S., to prohibit an officer, employee, or paid consultant of a Texas trade association in the field of health care from being a member or employee of the Texas State Board of Dental Examiners (board) who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for B9, rather than step 1, salary group 17, of the position classification salary schedule. Makes a conforming change.

SECTION 2. Amends Article 4544, V.T.C.S., as follows:

Art. 4544. EXAMINATION FOR LICENSE TO PRACTICE DENTISTRY

Sec. 1. Requires each person applying for a license, rather than an examination, to pay to the board an application fee set by the board. Requires the board to have the written portion of the jurisprudence examination validated by an independent testing professional.

Sec. 2. Provides that if the board contracts with an independent or regional testing service, this section does not apply. Requires the contract with the independent or regional testing service to provide for notification of results as provided by Subsection (a) of this section. Deletes text regarding board rules. Makes a conforming change.

Sec. 3. Makes conforming changes.

Sec. 4. Requires the board by rule to require a licensee to complete at least 12, rather than 36, hours of continuing education for, rather than in, each annual registration period, rather than three year period, as a prerequisite to renewal for a subsequent annual period, rather than maintain licensure.

SECTION 3. Amends Article 4545, V.T.C.S., to require each applicant for a license to practice dentistry to present certain proof of graduation. Deletes text requiring an applicant to present evidence of good moral character.

SECTION 4. Amends Section 1(a), Article 4545a, V.T.C.S., to require the board, upon payment by the applicant of a fee set by the board, to grant a license to practice dentistry to any reputable dentist or a license to practice dental hygiene to any reputable dental hygienist. Makes a conforming change.

SECTION 5. Amends Article 4547a, V.T.C.S., to require the board to have power and authority to appoint such committees, clerks, advisors, consultants, dentists, hygienists and/or examiners to aid the board to carry out its duties as it deems necessary.

SECTION 6. Amends Article 4548d, V.T.C.S., as follows:

Art. 4548d. New heading: SHALL EXHIBIT ANNUAL REGISTRATION CERTIFICATE. Requires any person authorized to practice dentistry or dental hygiene, rather than surgery, in this state either under this or any former law of Texas, to place the person's current registration certificate, rather than license, on exhibition in each office where said dentist or dental hygienist provides dental services. Authorizes the person, when a dentist or dental hygienist provides dental services at more than one location, display a duplicate of the original registration certificate obtained from the for a duplicate certificate fee set by the board, rather than license to be in plain view of patients. Prohibits a person from doing any operation in the mouth of a patient, or treating any lesions of the mouth or teeth, without having said registration certificate, rather than license, so exhibited. Makes a conforming and nonsubstantive change.

SECTION 7. Amends Article 4548e, V.T.C.S., to require any advertisement by a person, corporation, company, or association to include prominently the name of at least one dentist practicing under such name, and if the advertisement refers to one or more locations where dental services are provided, it must include, for each location, the name of at least one dentist who provides services at that location. Deletes text regarding trade name. Makes conforming changes.

SECTION 8. Amends Article 4548g, V.T.C.S., to provide that any unprofessional conduct, as used herein, means and includes obtaining or attempting to collect any fee by fraud or misrepresentation and soliciting dental business by means of oral, rather than verbal, communication, in person or otherwise, directed to an individual or group of less than five individuals.

SECTION 9. Amends Article 4549, V.T.C.S., as follows:

Art. 4549. New heading: REFUSAL TO ISSUE LICENSE; JUDICIAL SUSPENSION AND REVOCATION

Sec. 1. Requires the board to have authority to refuse to issue a license by examination to a dental or dental hygiene applicant, rather than examine any person to refuse to issue a dental license or a dental hygienist license to any person, for certain causes.

Sec. 2. Requires the board to have certain jurisdiction and authority for proof of conviction of the holder of a license or certificate of a misdemeanor involving fraud or any felony under the laws of this state or any other state or of the United States or is addicted to or is habitually intemperate in the use of alcoholic beverages or drugs or has improperly obtained, possessed, used, or distributed habit forming drugs or narcotics. Deletes text regarding malpractice, gross incompetency, and habitual intoxication. Makes conforming changes.

Sec. 3. Entitles the person to a hearing under Chapter 2001, Government Code, if the board proposes to refuse to issue a license by examination to a dental or dental hygiene applicant or 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. Makes a conforming change.

SECTION 10. Amends Article 4549-1.1, V.T.C.S., to delete text regarding the county in which a hearing conducted by the board may be held.

SECTION 11. Amends Article 4549-2, V.T.C.S., to require the owning dentist to furnish to a patient, on request, copies of the patient's dental records in accordance with rules relating to patient records adopted by the board.

SECTION 12. Amends Article 4550, V.T.C.S., as follows:

Art. 4550. RECORDS OF THE BOARD

Sec. 1. Requires the board to keep records in which shall be registered the name and permanent

address, rather than residence, and 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 certain persons in the dental profession registered with the board to timely notify the board in writing of certain actions.

Sec. 2. Provides that it is not a violation of this section for the board to share investigation files and records with another state regulatory agency or a local, state, or federal law enforcement agency.

SECTION 13. Amends Section 1, Article 4550a, V.T.C.S., to require persons holding a dental license or dental hygienist license issued by the board to annually apply and to be registered as such practitioners with the board on or before the expiration date of the license, rather than March 1st of each calendar year. Requires a person holding a dental or dental hygienist license to attach to the application proof that the applicant has successfully completed a current course, rather than current certification in CPR given or approved by the American Heart Association or American Red Cross. Makes conforming changes.

SECTION 14. Amends Sections 2(c), (d), (e), and (h), Article 4550a, V.T.C.S., to authorize the person to renew the person's license or certificate by paying to the board the required renewal fee and a fee that is one-half of the application, rather than examination fee for the license or certificate. Deletes text regarding Section 2A of this article. Deletes text regarding prorating license fees.

SECTION 15. Amends Section 4(i), Article 4550a, V.T.C.S., to require the board to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board, except to the extent that communication would be ex parte under any provision of law.

SECTION 16. Amends Subsection (a), Article 4550c, V.T.C.S., to make a conforming change.

SECTION 17. Amends Article 4551a, V.T.C.S., to require any person to be regarded as practicing dentistry within the meaning of this chapter who owns or manages a dental practice or attempts to influence through a management agreement. Authorizes rules adopted by the board addressing the prohibitions in this section to prohibit a person who is not a dentist from directly or indirectly influencing or interfering with the exercise of a dentist's independent professional judgment.

SECTION 18. Amends Article 4551b, V.T.C.S., to prohibit the definition of dentistry, as contained in Title 71, Chapter 9, V.T.C.S. from applying to certain dental health professionals and dental students.

SECTION 19. Amends Section 2, Chapter 475, Article 4551e, V.T.C.S., to require each applicant for a license to practice dental hygiene in this state, rather than hygienist, to be of good moral character. Makes conforming changes.

SECTION 20. Amends Section 3(b), Chapter 475, Article 4551e, V.T.C.S., to require all work performed by a dental hygienist in the practice of dental hygiene, as defined in this Act to be performed in the dental office of the supervising dentist or dentists who are legally engaged in the practice of dentistry in this state, a school, a hospital, a state institution, a public health clinic, or another institution. Makes conforming changes.

SECTION 21. Amends Section 4A(d), Chapter 475, Article 4551e, V.T.C.S., to authorize a member of advisory committee to receive, rather than is entitled to, reimbursement for travel, rather than transportation, expenses, including expenses for meals and lodging. Deletes text regarding the General Appropriations Act.

SECTION 22. Amends Section 5, Chapter 475, Article 4551e, V.T.C.S., to require all applicants for licensure, rather than examination, to pay an application fee set by the board to said board as determined by the board according to its needs. Requires the contract with the independent or regional testing services to provide for notification of results, if the board contracts with an independent or regional testing service.

SECTION 23. Amends Section 5A(b), Chapter 475, Article 4551e, V.T.C.S., to require the board, by rule, to require a license to complete at least 12, rather than 36, hours of continuing education for each annual registration, rather than three year, period as prerequisite to renewal for a subsequent annual period. Make a conforming change.

SECTION 24. Amends Subsections 6(c), and (d), Article 4551f, V.T.C.S., to authorize the owner or manager of a dental laboratory to renew the certificate by paying to the board all unpaid renewal fees and a fee equal to the amount of the initial fee registration fee. Provides that the owner of a dental laboratory registered with the board on September 1, 1987 is not required to submit proof that the laboratory has at least one certified dental technician employed by and working on the premises of the laboratory if the registration of the laboratory has been renewed each year, rather than continuous since that date and all registration fees have been paid. Makes a conforming change.

SECTION 25. Amends Article 4551j, V.T.C.S., to provide that no members of the board, its part-time employees, or persons who contract with the board shall be liable or subject to certain suits.

SECTION 26. Repealer: Section 2, Article 4544a, V.T.C.S. (regarding radiological procedures and techniques).

SECTION 27. Makes application of this Act prospective.

SECTION 28. Effective date: September 1, 1999.

SECTION 29. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 2.

Amends Article 4544, V.T.C.S., by inserting the article heading and incorporating Sections 1 through 4, rather than only Section 1. Amends Section 2 to delete text regarding the board.

Redesignates existing SECTIONS accordingly.

SECTION 17.

Amends Article 4551a, V.T.C.S., to require any person to be regarded as practicing dentistry within the meaning of this chapter who shall influence through a management agreement. Authorizes rules adopted by the board addressing the prohibitions in this section to prohibit a person who is not a dentist from directly or indirectly influencing or interfering with the exercise of a dentist's independent professional judgment.

SECTION 26.

Deletes repealer regarding Section 2, Article 4544, V.T.C.S. (Foreign Nonaccredited Dental School Graduates).