

1987 Assembly Bill 292

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## 1987 Wisconsin Act 316

AN ACT to amend 15.405 (6), 447.02 (1) (intro.) and (a) to (d), 447.02 (1) (f), (g) and (i), 447.07 (3) (intro.) and (b), 447.07 (7), 447.08 (1) and (2), 447.08 (3) and 447.08 (5) and (6); to repeal and recreate 447.001, 447.02 (1) (e) and 447.08 (4); and to create 447.02 (1) (k) and (L), 447.02 (1m) and 447.065 of the statutes, relating to the definition of the practice of dentistry and the licensure, qualifications, place of practice and supervision of dental hygienists.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 15.405 (6) of the statutes is amended to read:

15.405 (6) DENTISTRY EXAMINING BOARD. There is created a dentistry examining board in the department of regulation and licensing. The dentistry examining board shall consist of 8 members appointed for staggered 4-year terms. Five of the members shall be licensed dentists in this state. One member shall be a dental hygienist ~~certified~~ licensed to practice in this state. Notwithstanding s. 15.08 (1m) (a), the dental hygienist member may participate in the preparation and grading of licensing examinations for dental hygienists. Two members shall be public members.

SECTION 2. 447.001 of the statutes is repealed and recreated to read:

**447.001 Definitions.** In this chapter:

(1) "Dental disease" means any pain, injury, deformity, physical illness or departure from complete dental health or the proper condition of the human oral cavity or any of its parts.

(2) "Direction" means the delegation, by written prescription, of dental procedures and services by a licensed dentist following examination, diagnosis and development of a treatment plan by the licensed dentist.

(3) "Examining board" means the dentistry examining board.

(4) "Written prescription" means permission or approval in writing for a dental hygienist to perform

patient services or procedures permitted by a dental hygienist under this chapter, in accordance with the dentist's diagnosis of and treatment plan for a dental patient.

SECTION 3. 447.02 (1) (intro.) and (a) to (d) of the statutes are amended to read:

447.02 (1) (intro.) Any person who was lawfully engaged in the practice of dentistry in this state on January 1, 1939, may so continue if registered as required by s. 447.05 (4). No other person may practice dentistry in this state, unless licensed by the examining board and registered in this state. Without limitation by reason of specific enumeration, any person is deemed to be "practicing dentistry" within the meaning of this chapter who does any of the following:

(a) Uses or permits to be used, directly or indirectly, for any profit or otherwise for himself or herself, or for any other person, the title or appends to his or her name the words or letters "doctor," "Dr.," "Doctor of Dental Surgery," "D.D.S.," or "D.M.D.," or any other letters, titles, degrees, terms or descriptive matter, personal or not, which directly or indirectly represent him or her to be engaged in the practice of dentistry;

(c) Informs the public directly or indirectly in any language, orally, in writing or printing, or by drawings, demonstrations, signs, pictures or other means that he or she can perform or will attempt to perform dental services of any kind;

(d) Undertakes to practice dentistry by any means or methods, including those defined in this chapter, gratuitously, or for a salary, fee, money's worth, or other reward, paid directly or indirectly to himself or herself or to any other person;

SECTION 4. 447.02 (1) (e) of the statutes is repealed and recreated to read:

447.02 (1) (e) Examines into the fact, condition or cause of dental health or dental disease or applies principles or techniques of dental science in the diagnosis, treatment or prevention of or prescription for any of the lesions, dental diseases, disorders or deficiencies of the human oral cavity, teeth, investing tissues, maxilla or mandible, or adjacent associated structures.

SECTION 5. 447.02 (1) (f), (g) and (i) of the statutes are amended to read:

447.02 (1) (f) Extracts human teeth or corrects their malposition;

(g) Directly or indirectly, by mail, carrier, person or any other method, furnishes, supplies, constructs, reproduces or repairs prosthetic dentures, bridges, appliances or other structures to be used or worn as substitutes for natural human teeth, except on a written work authorization of a licensed dentist, and by the use of impressions taken by a dentist licensed by and practicing in this state; or who places such substitutes in the mouth directly or indirectly or adjusts the

same; or who takes or makes or gives advice or assistance or provides facilities for the taking or making of any impression, bite, cast or design preparatory to, or for the purpose of, or with a view to the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing of any such prosthetic denture, bridge or appliance; or taking impressions for and fitting athletic mouthguards;

(i) Prescribes or administers drugs in the course of or incident to the rendition of dental services, or as part of a representation that dental services have been or will be rendered;

SECTION 6. 447.02 (1) (k) and (L) of the statutes are created to read:

447.02 (1) (k) Penetrates, pierces or severs the tissues within the human oral cavity or adjacent associated structures. This paragraph does not apply to care or treatment rendered by a physician, as defined in s. 448.01 (5), acting within the scope of the practice of medicine and surgery, as defined in s. 448.01 (9).

(L) Develops a treatment plan for a dental patient to treat, operate, prescribe or advise for the patient by any means or instrumentality. Nothing in this paragraph prohibits a dental hygienist from participating in the development of a dental patient's dental hygiene treatment plan.

SECTION 7. 447.02 (1m) of the statutes is created to read:

447.02 (1m) A dentist has the ultimate responsibility for the application of principles or techniques of dental science in the diagnosis or prevention of any condition which affects the human oral cavity and adjacent associated structures and the overall quality of a patient's dental care.

SECTION 8. 447.065 of the statutes is created to read:

**447.065 Exception to license or certificate requirements.** Except for the practice of dental hygiene as licensed under s. 447.08 (1), nothing in this chapter may be construed to prohibit or to require a license or certificate under this chapter for a person who provides patient services as diagnosed, directed and inspected by a licensed dentist who may direct, decide and inspect the implementation of the patient services rendered.

SECTION 9. 447.07 (3) (intro.) and (b) of the statutes are amended to read:

447.07 (3) (intro.) Subject to the rules promulgated under s. 440.03 (1), the examining board may on its own motion make investigations and conduct hearings in regard to any alleged actions of any licensed dentist or ~~certified~~ dental hygienist, or of any other person it has reason to believe is acting or has acted in such capacity within the state, and may, on its own motion, or upon complaint in writing, suspend or revoke such license, registration or certificate, or reprimand the holder thereof if it finds that the holder has been guilty of:

(b) Having procured the license ~~or certificate~~ by fraud or perjury or through error.

SECTION 10. 447.07 (7) of the statutes is amended to read:

447.07 (7) Subject to the rules promulgated under s. 440.03 (1), the examining board may suspend the license, or registration ~~or certificate~~ of any person licensed, or registered ~~or certified~~ under this chapter who is a patient in a hospital for mental illnesses in this state or elsewhere. A certified copy of commitment or admission papers shall be conclusive evidence of the incapacity of such person to continue in the practice of dentistry or dental hygiene. A person who has been released from a hospital for mental illnesses may request the examining board in writing for reinstatement of the license or certificate of registration in dentistry or certificate license in dental hygiene. Following receipt of such request the examining board shall hold a hearing as soon as practicable to determine the capacity of the applicant to reengage in practice. At such hearing medical or other testimony on the issue of the applicant's mental and nervous condition, and on the degree and probable permanence of recovery may be offered on behalf of the applicant or the examining board. The examining board may also examine such applicant so as to be satisfied of the applicant's qualifications to resume the practice of dentistry or dental hygiene. Any decision made following such hearing shall be reviewable under ch. 227.

SECTION 11. 447.08 (1) and (2) of the statutes are amended to read:

447.08 (1) No person shall may practice as a dental hygienist without a certificate license from the ~~dentistry~~ examining board. Such a certificate license shall authorize the holder, under the ~~direct supervision of a licensed dentist~~ requirements of sub. (4), to perform those functions for which the hygienist has been trained ~~educated~~ in a school approved by the examining board.

(2) (a) An applicant shall file proof satisfactory to the examining board that he or she has a general education equivalent to graduation from a high school or academy in this state offering a 4-year curriculum beyond the 8th grade and that he or she is a graduate of ~~a training school~~ an educational institution for dental hygienists, approved by the examining board, which has a course of not less than 2 years of 8 months each. The fee specified in s. 440.05 (1) shall accompany the application. Applicants who have graduated prior to July 1, 1941, shall file proof satisfactory to the examining board that their educational requirements at the time of their graduation equaled those then required by the examining board.

(b) Applicants who qualify under par. (a) shall be examined in writing in such subjects usually taught in reputable schools for the training education of dental hygienists as the examining board deems necessary. In lieu of its own examination, the examining board may accept, in whole or in part, the certificate of the

national board of dental examiners. In addition, the applicants shall submit to such practical examination as is prescribed by the examining board.

SECTION 12. 447.08 (3) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

447.08 (3) The fee specified in s. 440.05 (3) shall be due and payable on or before September 30 of each odd-numbered year following issuance of the ~~certificate~~ license. Any registrant who, subsequent to registering, changes place of residence or employment shall, within 30 days thereafter, notify the examining board in writing of the change and furnish the address of the new residence or employment and, where applicable, the name of the new employer.

SECTION 13. 447.08 (4) of the statutes is repealed and recreated to read:

447.08 (4) (a) A licensed dental hygienist may practice dental hygiene as an employe or as an independent contractor only as follows:

1. In a dental office under the direction or in the presence of a licensed dentist.
2. For the board of education of a public or private school.
3. For a school for the education of dentists or dental hygienists.
4. For a facility, as defined in s. 50.01 (1m).
5. For a county, city-county or multiple-county health department, a county health committee or commission, or a city, village or town board of health under ch. 141.
6. For charitable institutions open to the general public or to members of a religious sect or order.
7. For a nonprofit home health care agency.

(b) No licensed dental hygienist may engage in the practice of dental hygiene in an entity used for the practice of dental hygiene without direction or the presence of a dentist, except under par. (a) 2, 3 or 5.

(c) If a licensed dentist is not present, a licensed dental hygienist may render dental hygiene services under direction only if all of the following conditions are met:

1. The dentist has examined the patient within the immediately preceding 12 months.
2. The dentist has entered a written prescription in the patient's dental record immediately following examination of the patient. The written prescription shall set forth the specific procedures which the dental hygienist may perform on the patient with the informed consent of the patient or parent or legal guardian of the patient. The period of validity of a written prescription under this subdivision is not more than 12 months from the date of issuance, unless earlier revoked by the dentist, and the dental hygienist may perform the procedures included in the written prescription only during this period of validity.
3. The patient has been the dentist's patient of record for not less than 12 months.

SECTION 14. 447.08 (5) and (6) of the statutes are amended to read:

447.08 (5) The examining board may ~~certify~~ license without written examination one ~~certified~~ licensed to practice dental hygiene in another state who presents satisfactory proof of having reputably engaged in practice in that state for 5 years next preceding the application, if in that state the requirements imposed are equivalent to those of this state, upon presentation of a ~~certificate~~ license from the other state, and evidence of completion of a course in a reputable ~~training school~~ educational institution for dental hygienists approved by the examining board in this state but only if the other state extends similar treatment to dental hygienists ~~certified~~ licensed to practice in this state. The applicant shall pass a practical demonstration in dental hygiene to the satisfaction of the examining board and pay the fee specified in s. 440.05 (2).

(6) The examining board may without further notice or process revoke the ~~certificate~~ license of a dental hygienist who fails within 60 days after the

mailing of notice in writing, sent by registered or certified mail to the person's last-known address, to register and pay the fee due for that 2-year period. A ~~certificate~~ license may be reinstated, in the discretion of the examining board, by the payment of the fees specified in s. 440.05 (3) and (5) within one year after revocation. If application for reinstatement is not made, within one year from the date of revocation, the person may be required to demonstrate current qualification by taking an examination in subjects relating to dental hygiene required by the examining board and pay the fee specified in s. 440.05 (1).

SECTION 15. **Nonstatutory provisions; licensure of existing dental hygienist certificate holders.** Any person who, on the effective date of this SECTION, holds a current certificate for practice as a dental hygienist issued by the dentistry examining board under section 447.08 (1) or (5), 1985 stats., is automatically licensed as a dental hygienist under section 447.08 (1) or (5) of the statutes, as affected by this act, without any additional examination or fee.