

CHAPTER 152.

DENTISTRY.

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152.01 Board. (1) The state board of dental examiners consists of five practicing dentists, at least three of whom shall be members of the Wisconsin state dental society, appointed by the governor, one each year for terms of five years, and who may be selected from nominees by the Wisconsin state dental society. No person shall be a member who is in any way connected with or interested in a dental school or dental department thereof. Each member shall take and file the official oath.

(2) A meeting shall be held in June or July each year at a place fixed by the board, for examinations and other business. Other meetings may be called by the board.

(3) The board shall elect a president, and a secretary-treasurer, in manner and for terms provided by by-law. The secretary shall give such bond as the board requires. His records shall be open to public inspection at reasonable hours.

(4) The board shall report to the governor, November thirtieth each year, its proceedings, including an account of moneys received and disbursed.

(5) The board shall have a seal and may hold hearings and may require the attendance of persons and the production of papers and may take testimony and hire investigators. The president and secretary may issue subpoenas and administer oaths. The board may pay out of its own funds witness fees and such other expenses as may be necessary or incidental to the carrying out of its functions.

(6) The attorney-general shall advise and assist the board or any member, but the board may employ with its own funds an attorney for consultation or to assist in legal proceedings.

(7) The board shall make such reasonable rules, by-laws and regulations as it may deem necessary for the proper and better guidance, government, discipline and regulations of the board and of licensed dentists and dental hygienists or persons acting as such pertaining to immoral or unprofessional conduct and unprofessional advertising as hereinafter defined in subsections (5) and (6) of section 152.06; and such by-laws, regulations and rules shall be published for two successive weeks in the official state paper and shall not take effect until so published. [1933 c. 189 s. 2, 3]

152.02 Practice. (1) One who was engaged in the lawful practice of dentistry in this state on January 1, 1939, may continue if he has annually registered. No other person shall practice dentistry in this state, unless he is licensed and annually registered in the state of Wisconsin. Any person shall be said to be practicing dentistry within the meaning of this chapter who uses or permits to be used, directly or indirectly, for a profit or otherwise for himself or for any other person, the title "doctor", "Dr.", "Doctor of Dental Surgery", or "D. D. S.", or any other letters, titles, terms or descriptive matter, personal or not, which directly or indirectly represent him to be engaged in the practice of dentistry; or who owns, leases, maintains, operates or controls, directly or indirectly, in whole or in part, an office or any other place where dental operations are performed, or who directly or indirectly is manager, proprietor or conductor of the same, except that owners or lessees of real estate, may lease the premises, or any part thereof, to dentists or dental surgeons or physicians who are qualified to practice dentistry or dental surgery, within the meaning of this act; or who informs the public directly or indirectly in any language, orally, in writing or printing, or by drawings, demonstrations, signs or pictures, that he can perform or will attempt to perform dental operations of any kind, or who undertakes to practice dentistry by any means or methods, as defined in this chapter, gratuitously, or for a salary, fee, money or other reward paid directly or indirectly to himself or to any other person; to diagnose or profess to diagnose or treat or profess to treat or prescribe or profess to prescribe for any of the lesions, diseases, disorders or deficiencies of the human oral cavity, teeth, investing tissues, maxilla or mandible, or adjacent associated structures; or who extracts human teeth, corrects malposition thereof; or who, except on written prescription of a licensed dentist, and by use of impressions taken by a duly licensed and practicing dentist, shall directly or indirectly by mail, carrier,

person or any other method furnish, supply, construct, reproduce or repair prosthetic dentures, bridges, appliances or other structures to be used or worn as substitutes for natural human teeth; or who shall place such substitutes in the mouth directly or indirectly or adjust the same, or administer anesthetics, either general or local, within the meaning of this chapter; or who engages in any of the practices included in the curricula of recognized dental schools or colleges. Except, that a physician or surgeon licensed in this state may extract teeth or operate upon the palate or maxillary bones and investing tissues and administer anesthetics, either general or local, within the meaning of this chapter; and that a bona fide student, in regular attendance at a dental school or college may practice under direct supervision of a teacher in such dental school or college or infirmary or clinic connected with such dental school or college. A legal practitioner of another state may demonstrate before a recognized incorporated dental society or school of instruction. Army, navy and United States public health and veterans' bureau dentists may practice only while operating under the jurisdiction of such departments, unless they are duly licensed in this state. A dental laboratory or dental laboratory technician may construct appliances or restorations for licensed dentists in a dental office or mechanical dental laboratory, only provided such appliances or restorations are constructed for a licensed dentist upon receipt of impressions or measurements supplied with directions and prescription from such licensed dentist, provided, that such appliances or restorations or the services rendered in the construction, repair or alterations thereof shall not be advertised, sold or delivered, directly or indirectly, to the public by the dental laboratory or dental laboratory technician as principal or agent.

(2) It shall be unlawful for any person or persons to practice or offer to practice dentistry or dental surgery, under the name of a company, association, or corporation, and any person or persons practicing or offering to practice dentistry or dental surgery shall do so under his name only; any person convicted of a violation of the provisions of this section shall be punished as provided in subsection (2) of section 152.08, and in addition thereto his license may be revoked as provided in paragraph (c) of subsection (3) of section 152.06.

(3) No person shall circulate or advertise fraudulent or misleading statements as to the skill of the operator, the quality of the materials, drugs or medicines used or methods practiced.

(4) Nothing in this chapter shall prevent the establishment of dental clinics by boards of education of public or private schools, county boards, boards of health or public or charitable institutions. [1933 c. 189 s. 2, 3; 1935 c. 125; 1939 c. 216]

Note: Corporation may not operate dental office unless all of its stockholders are licensed to practice dentistry. 21 Atty. Gen. 489.

152.03 Education; titles; fee. (1) No degree which shall entitle one to practice dentistry in this state shall be conferred by any dental school or college in this state, except doctor of dental surgery, and that only upon one who has satisfactorily completed a course of at least three years of eight months each in such recognized dental school or college. Advanced degrees in dentistry may be conferred by such recognized dental school or college. Possession of such degree shall entitle one licensed under this chapter to use the title "doctor", or append to his name the words or letters, "doctor", "Dr.", "Doctor of Dental Surgery", or "D. D. S." On and after January 1, 1941, the degree of "Doctor of Dental Surgery" shall be conferred only upon one who has satisfactorily completed a curriculum of at least four years of thirty-two weeks each in a dental school or college recognized by the Wisconsin state board of dental examiners. No dental school or college within this state shall enroll anyone not filing with the board of dental examiners proof satisfactory to the board that he has an education equivalent to graduation from a high school or academy in Wisconsin offering a four-year curriculum beyond the eighth grade, and the completion of a two-year period of college preparation satisfactory to the board. On and after January 1, 1941 this board shall approve for admission to the licensing examination only graduates of dental schools or colleges that require for admission a minimum of two years' college preparation leading to a baccalaureate degree and including English and the sciences, physics, biology and chemistry, or who have graduated in 1940 or in any previous year, provided the minimum scholastic and statutory requirements of the Wisconsin state board of dental examiners for such years have been met.

(2) No person shall be examined by the board unless he files proof satisfactory to the board that he has the preliminary education described in subsection (1) and is a graduate of a recognized dental school or college approved by the Wisconsin state board of dental examiners, and that he has his first citizenship papers, or that he holds a license to practice dentistry in some other state of the United States of America as provided in subsection (2) of section 152.05 and that a remittance of twenty-five dollars accompany his application for examination, returnable to him only if from sickness or other good cause he is unable to complete the examination.

(3) The board may, in its discretion, permit dental students who have successfully completed at least two years' work of eight months each in a recognized dental school and who files proof satisfactory to the board that he has the preliminary education described in subsection (1) to take written examination and credit, satisfactory grades toward final examination. The board may require a fee of ten dollars for such examination. [1937 c. 53; 1939 c. 216]

Note: Dental educational requirement of 4 years of 32 weeks each prescribed by 152.03 (1) relates to academic or school years rather than to calendar years, and board of dental examiners may accept credentials of graduate who has received required 128 weeks of instruction even though same has been completed in less than 4 calendar years. 31 Atty. Gen. 85.

152.04 Examination. Examination shall be in writing in anatomy, anesthesia, bacteriology, chemistry, histology, materia medica, metallurgy, pathology, physiology, prosthetic dentistry, pharmacology, physical diagnosis, oral surgery, orthodontia, oral hygiene, operative dentistry, therapeutics, toxicology and such other subjects relating to dentistry as the board deems necessary, and demonstrations in operative and mechanical dentistry.

152.05 License. (1) If the examination is satisfactory the board shall issue a license to practice dentistry, signed by the members and attested by the president and secretary.

(2) The board may issue license without examination upon payment of twenty-five dollars and satisfactory proof to said board filed in person by the applicant that he has been licensed to practice dentistry in another state and reputedly engaged in practice for five years next preceding his application if in the state or states in which the applicant has so practiced, preliminary education, not less than that required in this state, is required, and dentists of this state, who may remove to said state or states are extended a similar privilege.

(3) Whoever engages in the practice of dentistry shall keep his license conspicuously displayed in the place of practice so as to be easily seen and read.

(4) Dentists shall annually register and pay a fee of two dollars. This fee shall be due and payable to the secretary of the board on or before September thirtieth of each year. The board shall publish and mail an annual report and list of names and places of practice of all licensed dentists to each licensed dentist to his last known address.

(5) A licensed dentist of good moral character changing his residence to another state shall, upon payment of five dollars, receive a certificate signed by the president and secretary and bearing the board's seal, attesting his license and character. A licensed dentist removing to and practicing in another state, shall retain license in this state upon payment of the annual registration fee.

(6) Upon proof of loss of the original and payment of five dollars, a duplicate license shall be issued.

(7) No person shall practice dentistry in this state under any other Christian or given name or any other surname than that under which he was originally licensed or registered to practice dentistry in this or any other state, notwithstanding any other provision of the statutes to the contrary. This subsection does not apply to a change of name resulting from marriage or divorce. [1935 c. 125; 1943 c. 372]

152.06 Revocation. (1) The board may without further process revoke the license of one who for sixty days after notice in writing, by registered mail, mailed to his last known address, fails to annually register and pay the fee. His license may be reinstated, in the discretion of the board, by the payment of twenty-five dollars within one year from revocation.

(2) The board may revoke or suspend the license of one convicted of a crime involving moral turpitude, of which the record of conviction, or a copy certified by the clerk or judge of the court, shall be conclusive evidence.

(3) The board may on its own motion make investigations and conduct hearings in regard to the action of any licensed dentist and dental hygienist or any person who 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, duly signed and verified by the complainant and upon not less than ten days' notice to the licensed dentist and dental hygienist or person acting as such, suspend or revoke such license in the manner hereinafter provided if it finds that the holder of such license has: (a) been guilty of immoral or unprofessional conduct; (b) been guilty of having procured his license by fraud or perjury or through error; (c) been guilty of a violation of subsection (2) of section 152.02; (d) been guilty of a violation of the rules and regulations adopted by the board.

(4) A copy of the complaint shall forthwith be served upon the licensed dentist, or person acting as such, complained against by personal service or by mailing of the same to his last known business address. The person so served shall file his answer thereto with the board within 10 days after such service and shall also serve a copy of such an-

answer on the complainant. The board shall thereupon set the matter for hearing as promptly as possible and within 30 days after the date of filing of the complaint. Either party may appear at such hearing in person or by attorney or agent and present such testimony as may be pertinent to the controversy before the board. The action of the board shall be subject to review in the manner provided in chapter 227.

(5) "Immoral or unprofessional conduct" means: Employing what is known as "cappers" or "streeters" to obtain business; or resorting to unprofessional advertising, as defined in subsection (6); obtaining fee by fraud or deceit; wilfully betraying professional secrets; employing directly or indirectly a student or suspended or unlicensed dentist to perform operations, diagnoses or treat lesions of the human teeth or jaws, or correct malposed formations thereof, except that an unlicensed person may perform merely mechanical work upon inert matter in a dental office or laboratory; the advertisement of dental business or treatment of devices in which untruthful or impossible statements are made; habitual intemperance, or gross immorality.

(6) "Unprofessional advertising" as this term is used in subsection (5) shall include:

(a) Any advertising statements of a character tending to deceive or mislead the public;

(b) Advertising professional superiority or the performance of professional services in a superior manner;

(c) Advertising definite, fixed prices when the nature of the professional service rendered and the materials required must be variable;

(d) Advertising by means of large display, glaring, illuminated or flickering light signs, or containing as a part thereof the representation of a tooth, teeth, bridge work or any portion of the human head;

(e) Employing or making use of advertising solicitors or free publicity press agents;

(f) Advertising either by sign or in any manner under the name of a corporation, company, association, parlor or trade name. No dentist or dentists shall display any sign or advertise in any manner concerning his or their work by the use of any name except the name or names under which he or they are licensed to practice dentistry in this state, nor shall he or they use any parlor or trade name in connection with such name or names, or display any sign or advertise in any manner under any parlor or trade or assumed name under which his or their business was formerly conducted.

(g) The use of any office sign larger than six hundred square inches in size over all or containing letters over six inches in size. Such office signs may contain only the name or names of the duly licensed dentists practicing therein, their titles, office hours and purely educational matter not in conflict with law.

(h) Any printed advertisement larger than twenty square inches in size. Such printed advertisement may contain only the name or names of the duly licensed dentists, their titles, office hours, location, telephone number or numbers and purely educational matter not in conflict with law. [1933 c. 189 s. 1, 2; 1935 c. 125; 1939 c. 216; 1943 c. 375 s. 59]

Note: The state board of dental examiners had jurisdiction, within (3) and (4), to make an investigation and conduct a hearing in regard to the actions of a corporation and its manager employing practicing dentists, advertising and making contracts with patients, although neither the corporation nor its manager was licensed to practice. *Rust v. Board of Dental Examiners*, 216 W 127, 256 NW 919.

Subsection (6) is construed as definitive of "unprofessional advertising" and not merely a limitation on the power granted by 152.01 (7) to the state board of dental examiners to make rules in respect to such advertising, where it was not provided that such rules should have the force and effect

of law. Where the provisions of 152.06 (6) were general in character, the board could further expand or amplify such provisions under the rule-making power granted to the board, subject to the test of reasonableness. Various rules examined and some held within the power of the board and some not. *Modern S. Dentists v. Board of Dental Examiners*, 216 W 190, 256 NW 922.

Board is not authorized to revoke dental license because of insanity of licentiate. 20 Atty. Gen. 1039.

Employment by dentist of persons merely to distribute handbill advertising does not constitute employment of "cappers" or "streeters" to obtain business. 22 Atty. Gen. 263.

152.07 Dental hygienists. (1) No person shall engage in practice as a dental hygienist without a certificate from the state board of dental examiners. The certificate authorizes the holder to remove calcareous deposits, accretions and stains from the surfaces of teeth, and apply ordinary washes of a soothing character, but not to operate otherwise on the teeth or other tissues of the oral cavity.

(2) (a) A certificate shall be issued to him who satisfactorily passes the practical demonstrations prescribed by the state board of dental examiners and a written examination, including anatomy, histology, physiology, bacteriology, dental pathology, preventative dentistry, and such other subjects or demonstrations relating to dental hygiene as the board deems necessary.

(b) An applicant shall file proof satisfactory to the board that he is a citizen of the United States of America and has a general education equivalent to graduation from a high school or academy in Wisconsin offering a 4-year curriculum beyond the eighth grade and that he is a graduate of a training school for dental hygienists, approved and recognized by the board, having a course of not less than 2 years of 8 months

each. A remittance of \$10 shall accompany his application, returnable to the applicant only if from sickness or other good cause he is unable to complete the examination. Applicants who have graduated prior to July 1, 1941, shall file proof satisfactory to the board that their educational requirements at the time of their graduation equaled those then required by the Wisconsin state board of dental examiners.

(3) One to whom a certificate is issued shall register with the secretary and pay fee of one dollar, on or before the next succeeding first day of September, and annually thereafter.

(4) Certified dental hygienists may be employed by boards of education of public or private schools, county boards, boards of health, or public or charitable institutions, operating only under the direct supervision of one or more licensed dentists as provided in subsection (8) of this section and may be employed in any dental office only under the direct supervision of one or more licensed dentists, and not exceeding the number of licensed dentists operating therein and subject to the regulations of the board of dental examiners in enforcing this section and may under the direction and supervision of licensed dentists, act as assistant instructors in a school for the training of dental hygienists. They shall not otherwise engage in the practice of dental hygiene.

(5) The state board of dental examiners may revoke or suspend the certificate of a dental hygienist for violation of this chapter. The license of a dentist who shall permit a dental hygienist operating under his supervision to violate this chapter, shall be revoked or suspended under the provisions of this chapter.

(6) Whenever any other state requiring a preliminary education of dental hygienists not less than Wisconsin, shall grant to dental hygienists of this state reciprocal privilege of practicing the board of dental examiners at its discretion may, upon payment of \$10 issue a certificate to an applicant who shall in lieu of the written examination furnish proof, satisfactory to the board, that he has been duly licensed and lawfully and reputationally engaged in the practice as a dental hygienist in such other state for at least 5 years preceding the application. Such applicant shall pass the practical examination as prescribed to the satisfaction of the board of dental examiners.

(7) The board may without further process revoke the license of a dental hygienist who for 60 days after notice in writing, by registered mail, mailed to his last known address, fails to annually register and pay the fee prescribed. He may be reinstated, in the discretion of the board, upon the payment of \$5 within one year from revocation.

(8) (a) The term public health dental hygienists shall include all dental hygienists, licensed in this state, employed by official agencies such as school boards, local boards, departments of health or county boards, in any public health or educational capacity.

(b) The qualifications of all public health dental hygienists or instructors in dental hygiene hereafter entering such employment shall be determined by a committee of 3 examiners, one selected by the state board of health, who is a dental employe of that board, one member of the state board of dental examiners to be named by that board and one selected by the state superintendent of public instruction who is an employe of that department.

(c) Candidates recommended by the committee of examiners shall be certified by the state board of health to the local appointing body upon request and appointment shall be made from the certified list.

(d) Public health dental hygienists or instructors shall make a written report monthly in triplicate, one copy to the employing board, one to the local directing committee or officer, and one to the state board of health, showing the work done. The state board of health, through its department of dental education, shall examine the report and make recommendations for the improvement and the development of the dental hygiene service.

(e) The state board of health shall prescribe forms and equipment and notify the public dental hygienists where they can be purchased.

(f) This subsection shall not apply to cities of the first class.

(g) Any violation of this subsection shall constitute a misdemeanor and shall be punishable by a fine of not less than \$10 nor more than \$100. [1939 c. 216; 1941 c. 112; 1943 c. 177]

Note: Dental hygienist may not engage in diagnosis except as may be necessary to performance of services which he is authorized by the statute to render. 19 Atty. Gen. 355.

Under (4), Stats. 1939, dentist may not employ more than one dental hygienist, but

this does not prohibit employment of additional employe holding dental hygienist's license where such employment is for purely general office or other work and provided that such additional employe performs no services in capacity of dental hygienist. 28 Atty. Gen. 130.

152.08 Penalties. (1) Any licensed dentist, dental hygienist, or person holding himself out as such who shall employ what are known as "cappers" or "streeters" to obtain business; or who shall obtain a fee by fraud or deceit; or who shall wilfully betray

professional secrets; or who shall employ directly or indirectly a student or suspended or unlicensed dentist, dental hygienist or person holding himself as such, to perform operations, to diagnose and treat lesions of the human teeth, or jaws, or correct malposed formations thereof, except that an unlicensed person may perform merely mechanical work upon inert material in a dental office or laboratory; or who shall be guilty of "unprofessional advertising" as defined in subsection (6) of section 152.06; shall upon a first conviction be fined not less than twenty-five nor more than one hundred dollars and costs, and upon a second or subsequent conviction shall be fined not less than one hundred nor more than five hundred dollars, or be punished by imprisonment not less than sixty days nor more than one year, or by both such fine and imprisonment.

(2) Anyone who shall unlawfully engage in the practice of dentistry shall be fined not less than one hundred nor more than one thousand dollars, or shall be imprisoned not less than sixty days nor more than one year, or both, for each person treated. [1933 c. 189 s. 3]

152.09 Legislative intent. This entire chapter shall be deemed to be passed in the interests of the public health, safety and welfare and its provisions shall be liberally construed to carry out its objects and purposes. Each section of this chapter and every part of each section is declared to be an independent section or part of section and the holding of any section or part thereof to be void or unconstitutional or ineffective for any reason shall not affect the validity or meaning of any other section or part of section of this chapter. [1939 c. 216]