

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

As Engrossed: S1/25/01 S1/29/01 S2/8/01

# A Bill

Act 439 of 2001  
SENATE BILL 75

5 By: Senators Faris, P. Malone  
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## For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE 17-82-102 AND 17-82-103  
10 OF THE ARKANSAS DENTAL PRACTICE ACT; TO REDEFINE THE  
11 PRACTICE OF DENTAL HYGIENE AND THE SCOPE OF DUTIES OF  
12 DENTAL HYGIENISTS; AND FOR OTHER PURPOSES.  
13

## Subtitle

14 AN ACT TO AMEND SECTIONS OF THE ARKANSAS  
15 DENTAL PRACTICE ACT REGARDING DENTAL  
16 HYGIENISTS.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code 17-82-102(2) is amended to read as follows:

23 (2) "The practice of dental hygiene" means:

24 ~~(A) The removing of calculus, plaque, and stains from teeth, in~~  
25 ~~the office of and under the direct supervision of a licensed dentist;~~

26 ~~(B) The taking of radiographs of teeth, the alveolar process, or~~  
27 ~~any of the boney parts necessarily involved therewith, in the office of and~~  
28 ~~under the direct supervision of a licensed dentist.~~

29 (A) The assessment, prevention, and treatment of oral diseases  
30 provided by a licensed dental hygienist under the supervision of a licensed  
31 dentist as set out in the regulations of the Arkansas State Board of Dental  
32 Examiners.

33 (B) The practice of dental hygiene shall include the removal of  
34 deposits from supragingival and subgingival surfaces of the teeth and any  
35 other services which the board may authorize by regulation and which are not  
36 prohibited by any provision of this chapter.

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SECTION 2. Arkansas Code 17-82-103(b) is amended to read as follows:

(b) (1) No dental hygienist shall engage in any of the acts, services, or practices described in § 17-82-102 and the regulations of the Arkansas State Board of Dental Examiners except as specifically provided in that section and those regulations. Nor shall any dental hygienist perform any other acts, services, procedures, or practices which may be authorized by rules and regulations promulgated by the Arkansas State Board of Dental Examiners pursuant to authority granted in § 17-82-208 except in strict compliance with such rules and regulations and under the specific direction and direct supervision of a licensed dentist.

(2) All dental hygienist acts, services, and practices shall be performed under the supervision of a licensed dentist with the supervision being defined in regulations of the board.

SECTION 3. Arkansas Code 17-82-308(a) and (b) are amended to read as follows:

(a) A dentist or dental hygienist who desires to practice his profession in the State of Arkansas and who has been practicing his profession continuously for a period of five (5) years or more next preceding the date of the application may apply in writing to the Arkansas State Board of Dental Examiners for a license to practice his profession in the State of Arkansas without undergoing the examination required for licensing provided for in §§ 17-82-304 - 17-82-306. He must have been practicing by virtue of a license lawfully issued by the authority of another state, territory, ~~or~~ the District of Columbia, or Canada where the standard of proficiency at least equals that of the State of Arkansas.

(b) The application shall be accompanied by:

(1) A fee to be prescribed by the board which shall be an amount reasonably calculated to cover the costs of processing the application;

(2) The original or certified copy of the original license under which he has been practicing his profession; or

(3) A certificate from the authority which issued the license setting forth the applicant's moral reputation and character, history with the board, professional ability, and such other information or data as the board may deem necessary or expedient.

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SECTION 4. Arkansas Code 17-82-309 is repealed:

~~17-82-309. Reciprocity—Arkansas licensees.—~~

~~(a)(1) A dentist or dental hygienist who desires to leave the State of Arkansas and practice his profession elsewhere may, if he has been licensed and practicing continuously for five (5) years next preceding the date when he expects to leave the State of Arkansas, indicate his intention and apply in writing to the Arkansas State Board of Dental Examiners for a certificate of practice.—~~

~~(2) The application shall be accompanied by a fee of fifteen dollars (\$15.00), which is fixed as the fee for considering and acting upon the application.—~~

~~(3) The applicant shall also furnish whatever other information may be required by the board.—~~

~~(b) If the board determines that the applicant is of good moral reputation and character, that he is proficient in the practice of his profession, and that he has been continuously engaged in the practice of his profession for a period of five (5) years next preceding the date when he expects to leave the State of Arkansas, it shall issue and deliver to the applicant its certificate of practice, signed by the president and secretary of the board.—~~

~~(c)(1) The certificate of practice shall recite the number of years which the applicant has practiced in the State of Arkansas and the fact that the board deems the applicant to be of good moral reputation and character and proficient in the practice of his profession.—~~

~~(2) All such certificates of practice shall be alike in tenor and form.—~~

~~(d) Upon the refusal of the pertinent authority of any other state, territory, or the District of Columbia to fully honor such certificate of practice, the privilege and courtesy extended by the terms of § 17-82-308 may be deemed forfeited by that state, territory, or the District of Columbia.—~~

SECTION 5. Arkansas Code 17-82-310 is amended to read as follows:

17-82-310. Annual ~~registration~~ renewal - Procedure.

(a) All licenses to practice dentistry or dental hygiene issued in the State of Arkansas shall continue in full force and effect until forfeited, suspended, or revoked, subject to the following provisions:

1           (1) On January 1 of each year, every dentist and dental hygienist  
2 must register his license with the Arkansas State Board of Dental Examiners on  
3 forms prepared and furnished by the board supplying all the information and  
4 data requested on the forms; and

5           (2) A ~~registration renewal~~ fee of not more than fifty dollars  
6 ~~(\$50.00), to be fixed in an amount to be determined~~ by the board, ~~for a dental~~  
7 ~~hygienist, and a registration fee for a dentist in an amount to be determined~~  
8 ~~by the board~~ as being necessary to provide funds for the operation of the  
9 board and for other expenses in administering this chapter, ~~but not more than~~  
10 ~~one hundred dollars (\$100),~~ must be paid to the board upon the filing of the  
11 form, duly executed, with the board.

12           (b) Upon the filing of the ~~registration renewal~~ form and payment of the  
13 fee, the board shall issue to the ~~registrant licensee~~ its certificate of  
14 ~~registration renewal~~ which authorizes the ~~registrant licensee~~ to practice his  
15 profession in the State of Arkansas until the next date of ~~registration~~  
16 ~~renewal~~.

17           (c)(1) During the month of December of each year, the secretary of the  
18 board shall mail the approved ~~registration renewal~~ form to every dentist and  
19 dental hygienist registered in the State of Arkansas to his last known  
20 address.

21           (2) The failure of the dentist or dental hygienist to receive the  
22 form does not excuse his failure to ~~register~~ renew.

23           (3) The providing of false or fraudulent information to renew the  
24 license is grounds for imposition of the penalties set forth at § 17-82-316.

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26           SECTION 6. Arkansas Code 17-82-311 is amended to read as follows:

27           17-82-311. Annual ~~registration renewal~~ - Penalties for noncompliance.

28           ~~(a) Failure to register a license within a period of sixty (60) days~~  
29 ~~after January 1 of each year shall automatically increase the registration fee~~  
30 ~~by an additional ten dollars (\$10.00).—~~

31           ~~(b) Failure to register a license within a period of ninety (90) days~~  
32 ~~after January 1 of each year shall automatically increase the registration fee~~  
33 ~~by an additional fifteen dollars (\$15.00).—~~

34           ~~(c) After the ninety day period, failure to register a license shall~~  
35 ~~automatically increase the registration fee by an additional twenty five~~  
36 ~~dollars (\$25.00) for each succeeding period of thirty (30) days, or part~~

1 ~~thereof, which expires without registration until January 1 of the next year.~~

2 ~~(d) Failure to register a license by January 1 of the next year results~~  
3 ~~in an automatic forfeiture of the right to practice the profession, and the~~  
4 ~~holder who continues to practice his profession in this state disregarding the~~  
5 ~~forfeiture is subject to the penalties and liabilities prescribed in § 17-82-~~  
6 ~~301(b) and (c).~~

7 Failure to renew a license within a period of thirty (30) days after  
8 January 1 of each year shall result in forfeiture of the license.

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10 SECTION 7. Arkansas Code 17-82-312 is amended to read as follows:

11 17-82-312. Annual ~~registration~~ renewal - Relicensing.

12 (a) A dentist or dental hygienist whose license has been automatically  
13 forfeited pursuant to § 17-82-311 shall be relicensed, at any time until  
14 January 1 of the year following the forfeiture, by:

15 (1) Applying in writing to the Arkansas State Board of Dental  
16 Examiners;

17 (2) Paying all accrued ~~registration fees plus a relicensing fee~~  
18 ~~of fifty dollars (\$50.00)~~ renewal fees as established under § 17-82-310 and  
19 provided for in the regulations of the board, plus an additional penalty of  
20 two hundred dollars (\$200); and

21 (3) Furnishing such proof as the board may require that, in the  
22 period since January 1 of the year when his ~~registration~~ or her license ought  
23 first to have been effected, he or she has continuously conducted himself or  
24 herself in an ethical and proper fashion and complied with the regulations of  
25 the board and the provisions of the Dental Practice Act.

26 (b)~~(1)~~ A dentist or dental hygienist who applies for relicensing,  
27 following forfeiture, after two (2) years from January 1 of the year when his  
28 ~~registration~~ or her license ought first to have been effected may be  
29 relicensed by:

30 ~~(A)(1) Paying all accrued registration fees, plus a~~  
31 ~~relicensing fee of fifty dollars (\$50.00);~~ Complying with the requirements of  
32 § 17-82-312(a); and

33 (2)(A) Undergoing re-examination and passing the examination  
34 required by the regulations of the board.

35 (B) The re-examination shall consist of clinical skills  
36 only.

1 ~~(B) Furnishing such proof as the board may require that, in the period~~  
2 ~~since January 1 of the year when his registration ought first to have been~~  
3 ~~effected, he has continuously conducted himself in an ethical and proper~~  
4 ~~fashion; and~~

5 ~~(C) Providing such evidence and information and passing such~~  
6 ~~examinations as the board may require as delineated in its rules and~~  
7 ~~regulations.~~

8 ~~(2) Upon furnishing of the proof to the board, paying the registration~~  
9 ~~fees plus the relicensing fee of fifty dollars (\$50.00), and passing the~~  
10 ~~examination, the board shall cause to be issued to the applicant the authority~~  
11 ~~to practice his profession in the State of Arkansas.~~

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13 SECTION 8. Arkansas Code 17-82-313 is amended to read as follows:

14 17-82-313. Annual registration renewal - Nonresidents.

15 (a)(1) A dentist or dental hygienist who has been licensed and who  
16 becomes a nonresident of the State of Arkansas may continue in effect his  
17 license to practice in the State of Arkansas by paying the annual registration  
18 renewal fee required of resident dentists and dental hygienists.

19 (2) Before resuming the practice of his profession in the State  
20 of Arkansas, the dentist or dental hygienist shall:

21 (A) First furnish satisfactory proof to the Arkansas State  
22 Board of Dental Examiners that he has continuously practiced dentistry or  
23 dental hygiene since leaving the State of Arkansas and has at all times  
24 conducted himself in an ethical and proper fashion; and

25 (B) Pass such examinations and provide such evidence and  
26 information as the board may require as delineated in its rules and  
27 regulations.

28 (3) Upon the furnishing of such proof to the board, the board  
29 shall cause to be issued to the applicant the authority to resume his practice  
30 in the State of Arkansas.

31 (b)(1) A dentist or dental hygienist who has been licensed and who  
32 becomes a nonresident of the State of Arkansas and who fails to pay the annual  
33 registration fee required of resident dentists or dental hygienists as  
34 permitted by this section shall be entitled to resume practice in the State of  
35 Arkansas by complying with the requirements of § 17-82-312.÷

36 ~~(A) Furnishing satisfactory proof to the board that he has continuously~~

1 ~~practiced his profession since leaving the State of Arkansas and has at all~~  
2 ~~times conducted himself in an ethical and proper fashion;~~

3 ~~(B) Passing such examinations and providing such evidence and~~  
4 ~~information as the board may require as delineated in its rules and~~  
5 ~~regulations; and~~

6 ~~(C) Paying all accumulated annual registration fees which have become~~  
7 ~~due since he departed from the State of Arkansas, plus a special fee of fifty~~  
8 ~~dollars (\$50.00).~~

9 ~~(2) Upon furnishing the proof and upon payment of the registration~~  
10 ~~fees, plus the special fee of fifty dollars (\$50.00), the board shall issue to~~  
11 ~~the applicant authority to resume practice in the State of Arkansas.~~

12 ~~(c) A dentist or dental hygienist who becomes a nonresident of the~~  
13 ~~State of Arkansas and who resumes practice in the State of Arkansas without~~  
14 ~~having first obtained authority from the board, as provided in this section,~~  
15 ~~is subject to the penalties and liabilities prescribed in § 17-82-301(b) and~~  
16 ~~(c).~~

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18 SECTION 9. Arkansas Code 17-82-315 is repealed:

19 ~~17-82-315. Retirees—Annual renewal.~~

20 ~~Any person licensed as a dentist or dental hygienist by the Arkansas~~  
21 ~~State Board of Dental Examiners pursuant to this chapter, upon retirement from~~  
22 ~~active practice as a dentist or a dental hygienist, shall be entitled to renew~~  
23 ~~the license annually upon the payment of a fee of ten dollars (\$10.00). The~~  
24 ~~fee will be in lieu of all other license renewal fees.~~

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26 SECTION 10. Arkansas Code 17-82-316 is amended to read as follows:

27 17-82-316. Revocation or suspension - Grounds - Effect.

28 (a) The Arkansas State Board of Dental Examiners is vested with the  
29 power to revoke or suspend, for any period of time, the privilege of  
30 practicing under any license issued in the State of Arkansas to any dentist or  
31 dental hygienist, or dental assistant possessing an expanded duties permit, if  
32 the board finds that the licensee or permit holder has violated the Dental  
33 Practices Act, the regulations of the board or a previous order of the board.

34 (b) The board, in addition to suspending or revoking a license or  
35 permi t, may:

36 (1) Place a licensee on probation for a period not exceeding

1 eighteen (18) months per violation under terms and conditions determined by  
 2 the board to be in the best interest of the licensee and the people of the  
 3 State of Arkansas;

4 (2) Impose a fine not to exceed one thousand dollars (\$1,000) per  
 5 violation; or

6 (3) ~~Impose one (1) or more of the above penalties for any of the~~  
 7 ~~following causes, in addition to other causes mentioned elsewhere in this~~  
 8 ~~chapter, shown at a hearing before it:~~ Require a licensee or permit holder to  
 9 reimburse the board for its costs in conducting the investigation and hearing.

10 (c) The board may impose one (1) or more of the penalties set out in  
 11 subsection (b) of this section if the board finds that the licensed dentist,  
 12 dental hygienist, or permit holder has violated the Dental Practices Act, the  
 13 regulations of the board, or has committed one (1) or more of the following  
 14 acts:

15 ~~(A)~~ (1) The presentation to or filing with the board, for the  
 16 purpose of securing a license to practice dentistry or dental hygiene, of any  
 17 diploma, license, or certificate illegally or fraudulently obtained by the  
 18 applicant to obtain any permit issued by the board;

19 ~~(B)~~ (2) The use of an assumed or fictitious name in applying for a  
 20 license for the purpose of shielding moral unfitness or a criminal record;

21 ~~(C)~~ (3) The commission of any criminal operation; habitual  
 22 drunkenness for a period of three (3) months; insanity; adjudication of  
 23 insanity or mental incompetency if deemed detrimental to patients; conviction  
 24 of an infamous crime or felony; addiction to narcotics; immoral, dishonorable,  
 25 or scandalous conduct; professional incompetency; failure to maintain proper  
 26 standards of sanitation or failure otherwise to maintain adequate safeguards  
 27 for the health and safety of patients; employment in the practice of the  
 28 profession of any drug, nostrum, unknown formula, or dangerous or unknown  
 29 anesthetic, not generally used by the dental profession;

30 ~~(D)~~ (4) The advertising of services to the public which is  
 31 fraudulent and misleading or which does not comply with the rules and  
 32 regulations of the board;

33 ~~(E)~~ (5) Permitting any unlicensed person under his supervision or  
 34 control to perform any act, service, practice, or operation on any patient or  
 35 prospective patient which constitutes a part of the practice of dentistry or  
 36 dental hygiene or is involved with the administration of drugs, medicines, or



1 anesthetics, except those services permitted by the board and under the  
2 supervision of a licensed dentist;

3 ~~(F)~~(6) Violation of any rule or regulation of board standards of  
4 professional conduct for dentists and dental hygienists practicing within the  
5 state; or

6 (7) Violation of any term of probation or order previously  
7 entered by the board affecting the licensee or permit holder.

8 ~~(e)~~(d) The Arkansas State Board of Dental Examiners may revoke the  
9 license of a dentist who permits a dental hygienist or dental assistant under  
10 his or her supervision to perform any of the acts, services, or practices  
11 which are prohibited by this chapter. The board also may revoke the license of  
12 the offending dental hygienist or the permit of dental assistant.

13 ~~(d)~~(e) No license revoked by the board shall ever be renewed.

14 ~~(e)~~(f) No license which has been suspended by the board shall be  
15 reinstated until the offender has:

- 16 (1) Given satisfactory assurance of future correct conduct; and
- 17 (2) Paid a fee of fifty dollars (\$50.00) to the board.

18 ~~(f)~~(g) A license may be suspended or revoked if the licensee shall,  
19 during the term of his probation, violate any of the terms of his probation as  
20 set forth by the board.

21 ~~(g)~~(h) Any fine imposed on a licensee shall be paid to the board prior  
22 to the resumption of the practice of dentistry or dental hygiene by the  
23 licensee.

24 ~~(h)~~(i) A dentist or dental hygienist who resumes his practice after the  
25 revocation of his license is subject to the penalties and liabilities  
26 prescribed in § 17-82-301(b) and (c).

27 /s/ Fari s

30 APPROVED: 2/23/2001