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3 90th General Assembly  
4 Second Extraordinary Session, 2015

# A Bill

DRAFT JMB/JMB  
SENATE BILL

5  
6 By: Senator J. Hutchinson

7 Filed with: Arkansas Legislative Council  
8 pursuant to A.C.A. §10-3-217.

## 9 For An Act To Be Entitled

10 AN ACT TO AMEND THE ARKANSAS DENTAL PRACTICE ACT; TO  
11 AMEND THE DENTAL HYGIENIST COLLABORATIVE CARE  
12 PROGRAM; TO MODIFY THE APPOINTMENTS TO THE ARKANSAS  
13 STATE BOARD OF DENTAL EXAMINERS; TO MODIFY DENTISTRY  
14 SPECIALTY LICENSES; AND FOR OTHER PURPOSES.

## 16 Subtitle

17 TO AMEND THE ARKANSAS DENTAL PRACTICE  
18 ACT; TO AMEND THE DENTAL HYGIENIST  
19 COLLABORATIVE CARE PROGRAM; TO MODIFY THE  
20 APPOINTMENTS TO THE ARKANSAS STATE BOARD  
21 OF DENTAL EXAMINERS; AND TO MODIFY  
22 DENTISTRY SPECIALTY LICENSES.

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25  
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

27  
28 SECTION 1. Arkansas Code Title 17, Chapter 82, Subchapter 1, is  
29 amended to add an additional section to read as follows:

30 17-82-111. Nonclinical services.

31 (a) A person or entity shall not practice dentistry or otherwise  
32 violate the Arkansas Dental Practice Act, § 17-82-101 et seq., or the Dental  
33 Corporation Act, § 4-29-401 et seq., if the person or entity contracts to  
34 provide or otherwise engages in any of the following acts:

1           (1) Owning or leasing an asset used by a dental practice,  
2 including real property, furnishings, equipment, inventory, and other goods,  
3 but not including dental patient records;

4           (2) Employing or contracting for the services of personnel other  
5 than licensed dentists;

6           (3) Managing or contracting business or administrative services,  
7 or performing other related functions of a dental practice that do not  
8 include practicing dentistry as defined in § 17-82-102;

9           (4) Consulting or contracting for financial services and other  
10 activities or services relating to productivity, efficiency, or cost  
11 management of a dental practice that do not include practicing dentistry as  
12 defined in § 17-82-102; and

13           (5) Receiving fees for goods and services provided to a dental  
14 practice based upon an agreement with the dental practice owner, including  
15 fees based on a percentage of the revenues or profits of a dental practice.

16           (b) This section does not preclude, impair, or restrict a person or  
17 other entity from:

18           (1) Providing or engaging in any of the acts listed in  
19 subsection (a) of this section; or

20           (2) Contracting to provide or to engage in any of the acts  
21 listed in subsection (a) of this section.

22  
23           SECTION 2. Arkansas Code § 17-82-201 is amended to read as follows:  
24           17-82-201. Members – Appointment – Oath.

25           (a) The Arkansas State Board of Dental Examiners shall be composed of  
26 nine (9) members appointed by the Governor for terms of five (5) years:

27           (1) Six (6) members shall be regularly licensed, registered, and  
28 practicing dentists;

29           (2) One (1) member shall be a regularly licensed, registered,  
30 and practicing dental hygienist who shall have all voting powers of a board  
31 member;

32           (3) One (1) member, ~~to be known to serve~~ to serve as the consumer  
33 representative, shall be appointed from the state as a member at large. ~~The~~  
34 ~~appointment is subject to confirmation by the Senate. The consumer~~  
35 ~~representative shall not be actively engaged in or retired from the practice~~  
36 ~~of dentistry or dental hygiene. He or she~~ , subject to confirmation by the

1 Senate, and shall be a full voting member but shall not participate in the  
2 grading of examinations; and

3 (4) One (1) member of the board, to represent the elderly, shall  
4 be sixty (60) years of age or older, shall not be actively engaged in or  
5 retired from the profession of dentistry or dental hygiene, shall be  
6 appointed from the state at large subject to confirmation by the Senate, and  
7 shall be a full voting member but shall not participate in the grading of  
8 examinations.

9 (b) The consumer representative and the representative of the elderly  
10 positions may not be filled by the same person.

11 (c) The board members shall serve subject to the provisions of this  
12 chapter during the remainder of their respective terms and until their  
13 successors are appointed and qualified.

14 (d)(1) On September 1 of each year, or as soon as it is practicable  
15 thereafter, the Governor shall appoint a new dentist member, who has been  
16 first recommended by the Arkansas State Dental Association, to fill the then-  
17 accrued vacancy on the board and who shall serve until his or her successor  
18 is appointed and qualified.

19 (2) The Governor shall appoint a dentist member upon the advice  
20 and consent of the Dental Section of the Arkansas Medical, Dental, and  
21 Pharmaceutical Association.

22 (3)(A) The Governor shall ~~proceed to~~ appoint to the board a  
23 dental hygienist who has first been recommended by the Arkansas State Dental  
24 ~~Hygienist~~ Hygienists' Association.

25 (B) ~~This~~ The dental hygienist member shall serve until his  
26 or her successor is appointed and qualified.

27 (4) The Governor shall appoint to the board, upon the advice and  
28 consultation of the Dentists for Oral Health Innovation or its successor, a  
29 dentist member who:

30 (A) Actively practices in Arkansas; and

31 (B) Has either:

32 (i) Contracted for services described in § 17-82-111  
33 to be provided to his or her dental practice or dental corporation; or

34 (ii) Is employed by a dentist or dental corporation.

1 (e) All vacancies ~~which occur by reason of~~ due to death, resignation,  
 2 or that occur in any other manner, except vacancies ~~which~~ that occur by the  
 3 expiration of the term of appointment, shall be filled by the Governor:

4 (1) The professional members shall be appointed upon the  
 5 recommendation of the Arkansas State Dental Association, the Arkansas State  
 6 Dental ~~Hygienist~~ Hygienists' Association, the Dentists for Oral Health  
 7 Innovation, or the Dental Section of the Arkansas Medical, Dental, and  
 8 Pharmaceutical Association in the manner prescribed for the regular  
 9 appointments to the board~~;~~.

10 (2) All such appointments shall be limited to the unexpired term  
 11 of the office vacated.

12 (f) The recommendations of the ~~three (3) associations~~ four (4)  
 13 nonprofit organizations in subsection (d) of this section shall be conveyed  
 14 to the Governor under a certificate to be executed by the presidents and  
 15 secretaries of the respective ~~associations~~ organizations.

16 (g) Each member appointed to the board, before entering upon the  
 17 duties of his or her office, shall take the oath prescribed by Arkansas  
 18 Constitution, Article 19, § 20.

19  
 20 SECTION 3. Arkansas Code § 17-82-302 is amended to read as follows:  
 21 17-82-302. Exemptions.

22 ~~Nothing in this chapter shall~~ This chapter does not prohibit or require  
 23 a license for the following acts or practices:

24 (1) The performance of duty in this state of a commissioned  
 25 dental or medical officer of the United States Army, Air Force, Navy, United  
 26 States Department of Veterans Affairs, or Public Health ~~Services~~ Service;

27 (2) Clinical demonstrations before a society or convention of  
 28 dentists or dental hygienists by a ~~duly~~ licensed dentist or dental hygienist  
 29 of another state, territory, or the District of Columbia;

30 (3)(A) Acts ~~which~~ that would otherwise constitute the practice  
 31 of dentistry or dental hygiene by students under the supervision of  
 32 instructors in any dental college, university, hospital or institution, or  
 33 dental department of any college, university, hospital or institution, or  
 34 school of dental hygiene in this state ~~which~~ that is recognized as being  
 35 reputable by the Council on Dental Education and Licensure of the American

1 Dental Association ~~Council on Dental Education~~ and approved by the Arkansas  
2 State Board of Dental Examiners.

3 ~~(B) These acts must be~~ The acts described in subdivision  
4 (3)(A) of this section are those performed within the educational facility  
5 incident to a course of study or training and ~~shall not be~~ are not carried on  
6 for personal profit;

7 ~~(4)(A) Acts which~~ that would otherwise constitute the practice  
8 of dentistry by a graduate of a college of dentistry approved by the board  
9 who is engaged in an internship or residency program in a dental college,  
10 university, hospital or institution, or dental department of any college,  
11 university, hospital or institution in this state ~~which~~ that is recognized as  
12 ~~being~~ reputable by the Council on Dental Education and Licensure of the  
13 ~~American Dental Association Council on Dental Education~~ and approved by the  
14 board.

15 ~~(B) These acts must be~~ The acts described in subdivision  
16 (4)(A) of this section are those performed within the facility pursuant to  
17 the internship or residency program, and the intern or resident ~~shall serve~~  
18 serves without fee or compensation other than that received in salary or  
19 other authorized allowances;

20 ~~(5)(A) Acts which~~ that would otherwise constitute the practice  
21 of dentistry by a graduate of a college of dentistry approved by the board  
22 who is engaged in teaching dentistry in a dental college, university,  
23 hospital or institution, or dental department of any college, university,  
24 hospital or institution in this state ~~which~~ that is recognized as ~~being~~  
25 reputable by the Council on Dental Education and Licensure of the American  
26 ~~Dental Association Council on Dental Education~~ and approved by the board.

27 ~~(B) These acts must be~~ The acts described in subdivision  
28 (5)(A) of this section are those performed within the facility pursuant to  
29 the teaching appointment, and the person ~~shall serve~~ serves without fee or  
30 compensation other than that received in salary or other authorized  
31 allowances; ~~or~~

32 ~~(6)(A)~~ (6)(A) The practice of dentistry or dental hygiene within the  
33 scope of the dentist's or dental hygienist's duties as an employee of the  
34 ~~Federal~~ Bureau of Prisons, provided that the dentist or dental hygienist has  
35 obtained a license to practice from Arkansas or any other state, territory,  
36 the District of Columbia, or Canada.

1 (B) Dentists and dental hygienists authorized to practice  
 2 under subdivision (6)(A) of this section may provide dental treatment or  
 3 services only to inmates and shall not provide dental treatment or services  
 4 to other employees of the ~~Federal~~ Bureau of Prisons or any other person;

5 (7)(A) The practice of dentistry or dental hygiene within the  
 6 scope of the license by a dentist or dental hygienist who has obtained a  
 7 license to practice from any state, territory, the District of Columbia, or  
 8 Canada as part of an employment interview process with or conducted by a  
 9 dentist licensed by the board or a corporation formed under the Dental  
 10 Corporation Act, § 4-29-401 et seq.

11 (B) This exemption under subdivision (7)(A) of this  
 12 section shall not exceed thirty (30) days for each employment interview; or

13 (8) The practice of dentistry or dental hygiene within the scope  
 14 of the license by a dentist or dental hygienist who has obtained a license to  
 15 practice from any state, territory, the District of Columbia, or Canada to  
 16 provide temporary services not to exceed forty-five (45) days during the  
 17 calendar year to the patients of a dentist licensed by the board or a  
 18 corporation formed and registered under the Dental Corporation Act, § 4-29-  
 19 401 et seq., if:

20 (A) The opportunity to provide the temporary services has  
 21 been made available to dentists or dental hygienists licensed by the board  
 22 for at least seven (7) days in a newspaper or on an Internet-based posting  
 23 site for employment positions; and

24 (B) No suitable candidates licensed by the board have been  
 25 found on terms and conditions acceptable to the dentist or corporation.

26  
 27 SECTION 4. Arkansas Code § 17-82-305 is amended to read as follows:

28 17-82-305. Dentists – Specialists – Licensing procedure.

29 (a)(1) ~~Any~~ A dentist in this state licensed by the Arkansas State  
 30 Board of Dental Examiners who has complied with requirements as specified by  
 31 the Council on Dental Education and Licensure of the American Dental  
 32 Association ~~Council on Dental Education~~ in a specialty branch of dentistry or  
 33 who has otherwise met the requirements of the rules ~~and regulations~~  
 34 promulgated by the board may apply for a certificate as a specialist.

35 (2)(A) The application shall be accompanied by the payment of a  
 36 fee to be prescribed by the board.

1           (B) The fee shall be an amount reasonably calculated to  
2 cover the cost of the examination and other costs incurred by the board in  
3 issuing the certificate.

4           (3)(A) The application ~~must be~~ shall be kept on file for at  
5 least sixty (60) days ~~prior to~~ before the regular meeting of the board.

6           (B) If the application is accepted, the applicant shall be  
7 notified to appear for an examination as defined by the rules ~~and regulations~~  
8 of the board.

9           (b) Examinations may be oral or written, or both, and the applicant  
10 may be required to demonstrate his or her knowledge and proficiency in the  
11 specialty in which he or she desires to be certified.

12           (c) The board is authorized to certify specialists in all specialty  
13 areas approved by the American Dental Association.

14           (d) ~~Any~~ A dentist not licensed by the board but who is eligible to  
15 take the Arkansas State Board Examination and is further eligible for  
16 specialty examination may take both examinations at the discretion of the  
17 board.

18           (e) ~~No~~ A licensed dentist shall not hold himself or herself out to the  
19 public as a specialist or publicly announce as being specifically qualified  
20 in any particular branch of dentistry or publicly announce as giving special  
21 attention to any branch of dentistry until he or she has been issued a  
22 certificate by the board authorizing him or her to do so.

23           (f) ~~Any~~ A dentist in this state licensed by the board who on February  
24 21, 1969, is limiting his or her practice to a particular branch of dentistry  
25 and who is holding himself or herself out to the public as a specialist in a  
26 particular branch of dentistry, upon application ~~therefor~~ to the board, shall  
27 be certified as a specialist in that branch of dentistry and shall not be  
28 required to take the examination provided for in subsection (b) of this  
29 section.

30           (g)(1) The issuing of a specialist license by the board is a special  
31 privilege granted to that member that allows him or her to announce to the  
32 public that he or she is especially qualified in a particular branch of  
33 dentistry.

34           (2) ~~Any member granted this special privilege must limit his or~~  
35 ~~her practice to the specialty in which he or she is licensed except in an~~  
36 ~~emergency situation~~ The issuance of a specialist license does not limit a

1 licensed dentist's ability to practice in any other area of dentistry for  
2 which the dentist is qualified, including general dentistry.

3 ~~(3) The failure to limit his or her practice as provided in~~  
4 ~~subdivision (g)(2) of this section described by the appropriate national~~  
5 ~~specialty board shall be cause for the specialist license to be revoked or~~  
6 ~~suspended~~ A dentist who has been issued a specialist license may announce and  
7 hold himself or herself out to the public both as a specialist in the area of  
8 dentistry licensed by the board and as a dentist that provides other  
9 dentistry services as he or she is licensed to provide.

10  
11 SECTION 5. Arkansas Code § 17-82-701 is amended to read as follows:  
12 17-82-701. Definitions.

13 As used in this subchapter:

14 (1) "Collaborative agreement" means a written agreement between  
15 a dentist licensed by the Arkansas State Board of Dental Examiners and a  
16 dental hygienist licensed by the Arkansas State Board of Dental Examiners  
17 providing that the dental hygienist may provide prophylaxis, fluoride  
18 treatments, sealants, dental hygiene instruction, assessment of a patient's  
19 need for further treatment by a dentist, and if delegated by the consulting  
20 dentist, other services provided by law ~~to children, senior citizens, and~~  
21 ~~persons with developmental disabilities in a public setting~~ without the  
22 supervision and presence of the dentist and without a prior examination of  
23 the persons by the dentist;

24 (2) "Collaborative dental hygienist" means a dental hygienist  
25 who holds a Collaborative Care Permit I, a Collaborative Care Permit II, or  
26 both, from the Arkansas State Board of Dental Examiners and who has entered  
27 into a collaborative agreement with no more than one (1) consulting dentist  
28 regarding the provision of services under this subchapter;

29 (3) "Consulting dentist" means a dentist who holds a  
30 Collaborative Dental Care Permit from the Arkansas State Board of Dental  
31 Examiners and:

32 (A) If engaged in the private practice of dentistry, has  
33 entered into a collaborative agreement with no more than three (3)  
34 collaborative dental hygienists regarding the provision of services under  
35 this subchapter; or

36 (B) Is employed by the Department of Health; and



1 (4) "Medicaid" means the medical assistance program established  
2 under § 20-77-101 et seq.;

3 ~~(5) "Public settings" means:~~

4 ~~(A) Adult long term care facilities;~~

5 ~~(B) Charitable health clinics that provide free or~~  
6 ~~reduced fee services to low income patients;~~

7 ~~(C) County incarceration facilities;~~

8 ~~(D) Facilities that primarily serve developmentally~~  
9 ~~disabled persons;~~

10 ~~(E) Head Start programs;~~

11 ~~(F) Homes of homebound patients who qualify for in-home~~  
12 ~~medical assistance;~~

13 ~~(G) Hospital long term care units;~~

14 ~~(H) Local health units;~~

15 ~~(I) Schools;~~

16 ~~(J) Community health centers; and~~

17 ~~(K) State correctional institutions; and~~

18 ~~(6) "Senior citizen" means a person sixty five (65) years of age~~  
19 ~~or older.~~

20  
21 SECTION 6. Arkansas Code § 17-82-703 is amended to read as follows:

22 17-82-703. Provision of services by collaborative dental hygienists.

23 (a) A collaborative dental hygienist who obtains a Collaborative Care  
24 Permit I may provide prophylaxis, fluoride treatments, sealants, dental  
25 hygiene instruction, assessment of the patient's need for further treatment  
26 by a dentist, and other services provided by law if delegated by the  
27 consulting dentist ~~to children in a public setting~~ without the supervision  
28 and direction of a dentist and without a prior examination of the patient by  
29 the consulting dentist.

30 (b) A collaborative dental hygienist who holds a Collaborative Care  
31 Permit II may provide prophylaxis, fluoride treatments, sealants, dental  
32 hygiene instruction, assessment of the patient's need for further treatment  
33 by a dentist, and other services provided by law if delegated by the  
34 consulting dentist ~~to children, senior citizens, and persons with~~  
35 ~~developmental disabilities in public settings~~ without the supervision and

1 direction of a dentist and without a prior examination of the patient by the  
2 consulting dentist.

3  
4 SECTION 7. Arkansas Code § 17-82-704(d), concerning reimbursement for  
5 collaborative dental hygienist, is repealed.

6 ~~(d) If the consulting dentist for the collaborative dental hygienist~~  
7 ~~is not a participating provider under the terms of a patient's insurance~~  
8 ~~carrier, a health insurance company may pay the patient directly.~~

9  
10 SECTION 8. Arkansas Code § 17-82-705 is repealed.

11 ~~17-82-705. Permission of the Department of Health — Responsibilities~~  
12 ~~of the Department of Health.~~

13 ~~(a) In order for a collaborative dental hygienist to provide services~~  
14 ~~to persons under this subchapter, the consulting dentist with whom the~~  
15 ~~collaborative dental hygienist has entered a collaborative agreement must~~  
16 ~~have received permission from the Department of Health for the collaborative~~  
17 ~~dental hygienist to serve patients at public settings designated by the~~  
18 ~~department on a date or dates designated by the department.~~

19 ~~(b) The department shall develop a system of prioritization of~~  
20 ~~services permitted under this subchapter to communities in the state,~~  
21 ~~including rural areas, based on the relative population of people at need for~~  
22 ~~services permitted under this subchapter and endeavor to direct services~~  
23 ~~permitted under this subchapter to such communities, including rural areas.~~

24  
25 SECTION 9. Arkansas Code § 17-82-706 is amended to read as follows:

26 17-82-706. Rules.

27 ~~(a)~~ The Arkansas State Board of Dental Examiners shall adopt rules to  
28 implement §§ 17-82-701 – 17-82-704.

29 ~~(b) The State Board of Health shall adopt rules to implement § 17-82-~~  
30 ~~705.~~

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32  
33 Referral requested by: Senator Jeremy Hutchinson

34 Prepared by: JMB