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A Bill

DRAFT JMB/JMB

SENATE BILL

By: Senator J. Hutchinson

Filed with: Arkansas Legislative Council

pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

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

Subtitle

TO AMEND THE ARKANSAS DENTAL PRACTICE
ACT; TO AMEND THE DENTAL HYGIENIST
COLLABORATIVE CARE PROGRAM; TO MODIFY THE
APPOINTMENTS TO THE ARKANSAS STATE BOARD
OF DENTAL EXAMINERS; AND TO MODIFY
DENTISTRY SPECIALTY LICENSES.

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

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

17-82-111. Nonclinical services.

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) One (1) member, ~~to be known to serve~~ to serve as the consumer representative, shall be appointed from the state as a member at large. ~~The appointment is subject to confirmation by the Senate. The consumer representative shall not be actively engaged in or retired from the practice 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.

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

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

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

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

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

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

17-82-302. Exemptions.

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

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

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

(3)(A) Acts ~~which~~ that would otherwise constitute the practice of dentistry or dental hygiene by students under the supervision of instructors in any dental college, university, hospital or institution, or dental department of any college, university, hospital or institution, or school of dental hygiene in this state ~~which~~ that is recognized as being 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)~~ 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.

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

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

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

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

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

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

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

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

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

(2)(A) The application shall be accompanied by the payment of a 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.

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

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

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

- ~~(A) Adult long term care facilities;~~
- ~~(B) Charitable health clinics that provide free or reduced fee services to low income patients;~~
- ~~(C) County incarceration facilities;~~
- ~~(D) Facilities that primarily serve developmentally disabled persons;~~
- ~~(E) Head Start programs;~~
- ~~(F) Homes of homebound patients who qualify for in home medical assistance;~~
- ~~(G) Hospital long term care units;~~
- ~~(H) Local health units;~~
- ~~(I) Schools;~~
- ~~(J) Community health centers; and~~
- ~~(K) State correctional institutions; and~~

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

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

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

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

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

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

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

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

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

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

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

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

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

17-82-706. Rules.

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

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

Referral requested by: Senator Jeremy Hutchinson

Prepared by: JMB