
By: **Delegate Boutin**

Introduced and read first time: February 8, 2005

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Dental Examiners - Licensing and Regulation**

3 FOR the purpose of providing that a certain part-time faculty member of a certain
 4 dental school qualifies for a certain teacher's license to practice dentistry;
 5 providing the qualifications for a limited license to practice dentistry; repealing
 6 a provision that requires passage of certain examinations to qualify for a certain
 7 limited license; repealing a provision that requires the Board of Dental
 8 Examiners to give a certain examination a certain number of times each year at
 9 certain times and places; repealing a requirement that a certain examination be
 10 in writing; repealing a provision that requires certain applicants who fail a
 11 certain examination a certain number of times to complete certain education
 12 requirements; requiring the Board to include the name of a certain school where
 13 a certain licensee is a part-time faculty member; authorizing the Board to set a
 14 certain fee for certain licenses; authorizing the Board to direct certain licensees
 15 or certified dental radiation technologists to submit to a certain examination
 16 under certain circumstances; providing for the consent to a certain examination
 17 and waiver of certain claims of privilege under certain circumstances; requiring
 18 the Board to pay the costs of a certain examination; providing certain
 19 disciplinary grounds for dentists and dental hygienists; repealing certain notice
 20 of service requirements; providing for expiration of the terms of members of the
 21 Board; and generally relating to the licensing and regulation by the State Board
 22 of Dental Examiners.

23 BY repealing and reenacting, without amendments,
 24 Article - Health Occupations
 25 Section 4-202(a)
 26 Annotated Code of Maryland
 27 (2000 Replacement Volume and 2004 Supplement)

28 BY repealing and reenacting, with amendments,
 29 Article - Health Occupations
 30 Section 4-202(h), 4-302, 4-303, 4-305, 4-307, 4-309, 4-315, and 4-318
 31 Annotated Code of Maryland
 32 (2000 Replacement Volume and 2004 Supplement)

1 BY adding to
2 Article - Health Occupations
3 Section 4-313.1
4 Annotated Code of Maryland
5 (2000 Replacement Volume and 2004 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article - Health Occupations**

9 4-202.

10 (a) (1) The Board consists of 15 members.

11 (2) Of the 15 Board members:

12 (i) 9 shall be licensed dentists;

13 (ii) 3 shall be licensed dental hygienists; and

14 (iii) 3 shall be consumer members.

15 (3) The Governor shall appoint the dentist Board members, with the
16 advice of the Secretary, from a list of names submitted to the Governor jointly by the
17 Maryland State Dental Association and the Maryland Dental Society. The number of
18 names on the list for one vacancy shall be at least four names, for two vacancies at
19 least three names for each vacancy, and for three or more vacancies at least two
20 names for each vacancy.

21 (4) The Governor shall appoint the dental hygienist Board members,
22 with the advice of the Secretary, from a list of names submitted to the Governor by
23 the Maryland Dental Hygienists' Association. The number of names on the list shall
24 be four times the number of vacancies.

25 (5) The Governor shall appoint the consumer members with the advice of
26 the Secretary and the advice and consent of the Senate.

27 (h) (1) The term of a member is 4 years.

28 (2) The terms of the members are staggered as required by the terms
29 provided for members of the Board on October 1, [1994] 2005.

30 (3) At the end of a term, a member continues to serve until a successor is
31 appointed and qualifies.

32 (4) A member who is appointed after a term has begun serves only for
33 the rest of the term and until a successor is appointed and qualifies.

1 (5) A member may not be appointed for more than 2 consecutive full
2 terms.

3 (6) To the extent practicable, the Governor shall fill any vacancy on the
4 Board within 60 days of the date of the vacancy.

5 4-302.

6 (a) Except as otherwise provided in this title, to qualify for a license, an
7 applicant shall be an individual who meets the requirements of this section.

8 (b) The applicant shall be of good moral character.

9 (c) To qualify for a license to practice dentistry, the applicant shall be at least
10 18 years old.

11 (d) Unless waived by the Board under §§ 4-303 and 4-303.1 of this subtitle, to
12 qualify for a license to practice dentistry, the applicant shall hold a degree of Doctor of
13 Dental Surgery, Doctor of Dental Medicine, or the equivalent, from a college or
14 university that is:

15 (1) Authorized by any state or any province of Canada to grant the
16 degree; and

17 (2) Recognized by the Board as requiring adequate preprofessional
18 collegiate training and as maintaining an acceptable course of dental instruction.

19 (e) To qualify for a license to practice dental hygiene, the applicant shall be a
20 graduate of a school for dental hygienists that:

21 (1) Requires at least 2 years of education in an institution of higher
22 education;

23 (2) Is accredited by the American Dental Association Commission on
24 Dental Accreditation; and

25 (3) Is approved by the Board.

26 (f) (1) Unless the examination requirement is waived under § 4-306 or §
27 4-310 of this subtitle, and except as provided in § 4-303.1 of this subtitle, to qualify
28 for a general license to practice dentistry or a general license to practice dental
29 hygiene, the applicant shall pass an examination given by the Board under this
30 subtitle.

31 (2) An examination is not required for a teacher's license to practice
32 dentistry, a limited license to practice dentistry, or a teacher's license to practice
33 dental hygiene.

34 (g) In addition to the requirements of subsections (a), (b), (c), and (d) of this
35 section, to qualify for a teacher's license to practice dentistry, the applicant shall:

- 1 (1) Be licensed to practice dentistry in any other state;
- 2 (2) Have been active in the dental profession for at least 5 years;
- 3 (3) Be a full-time OR PART-TIME faculty member at a college or
4 university where the applicant teaches a subject required by the dental school of that
5 college or university; and
- 6 (4) If the applicant is engaged in a teaching area that is designated as a
7 specialty by the American Dental Association, meet the requirements established by
8 the American Dental Association for that specialty.

9 (h) In addition to the requirements of subsections (a), (b), and (e) of this
10 section, to qualify for a teacher's license to practice dental hygiene, the applicant
11 shall:

- 12 (1) Be licensed to practice dental hygiene in any other state;
- 13 (2) Have been active as a dental hygienist for at least 5 years before
14 applying for the teacher's license to practice dental hygiene; and
- 15 (3) Be a full-time OR PART-TIME faculty member at a dental school
16 where the applicant teaches a subject required by that school.

17 (i) In addition to the requirements of subsections (a), (b), (c), and (d) of this
18 section, to qualify for a retired volunteer dentist's license to practice dentistry, the
19 applicant shall:

- 20 (1) Have had a general license to practice dentistry issued under this
21 title within the last 2 years;
- 22 (2) Complete the continuing education requirements that the Board
23 establishes for a general license; and
- 24 (3) Provide dental services as required under § 4-308(c) of this subtitle.

25 (j) In addition to the requirements of subsections (a), (b), and (e) of this
26 section, to qualify for a retired dental hygienist's license to practice dental hygiene,
27 the applicant shall:

- 28 (1) Have had a general license to practice dental hygiene under this title
29 within the last 2 years;
- 30 (2) Complete the continuing education requirements that the Board
31 establishes for a general license; and
- 32 (3) Provide dental hygiene services as required under § 4-308(f) of this
33 subtitle.

1 (k) In addition to the requirements of subsections (a), (b), (c), and (d) of this
2 section, to qualify for a volunteer dentist's license to practice dentistry, the applicant
3 shall:

4 (1) Satisfy the requirements of § 4-306(b)(1) and (d)(2) of this subtitle;

5 (2) Hold an active license to practice dentistry in another state or in the
6 District of Columbia;

7 (3) Complete the continuing education requirements that the Board
8 establishes for a general license;

9 (4) Provide dental services exclusively in the manner described in §
10 4-308(c) of this subtitle; and

11 (5) Immediately upon ceasing to provide services exclusively in the
12 manner described in § 4-308(c), surrender the volunteer license to the Board.

13 (l) In addition to the requirements of subsections (a), (b), (c), and (e) of this
14 section, to qualify for a volunteer dental hygienist's license to practice dental hygiene,
15 an applicant shall:

16 (1) Satisfy the requirements of § 4-306(b)(2) and (e)(2) of this subtitle;

17 (2) Hold an active license to practice dental hygiene in another state or
18 in the District of Columbia;

19 (3) Complete the continuing education requirements that the Board
20 establishes for a general license;

21 (4) Provide dental hygiene services exclusively in the manner described
22 in § 4-308(f) of this subtitle; and

23 (5) Immediately upon ceasing to provide services exclusively in the
24 manner described in § 4-308(f), surrender the volunteer license to the Board.

25 (M) TO QUALIFY FOR A LIMITED LICENSE TO PRACTICE DENTISTRY, THE
26 APPLICANT SHALL MEET THE REQUIREMENTS SET FORTH IN SUBSECTIONS (A), (B),
27 (C), AND (D) OF THIS SECTION.

28 4-303.

29 (a) Subject to the provisions of this section, the Board may waive the
30 education requirements of § 4-302 of this subtitle for an applicant for a limited
31 license who does not hold a Degree of Doctor of Dental Surgery, Doctor of Dental
32 Medicine, or the equivalent from a college or university that is authorized by any
33 state or any province of Canada to grant the degree and is recognized by the Board
34 under § 4-302(d)(2) of this subtitle.

35 (b) The Board may grant a waiver under this section only if the applicant:

1 (1) [Passes a series of preliminary tests given by the Board under its
2 regulations to determine that the applicant is qualified to take the examination for a
3 general license to practice dentistry;

4 (2)] Completes at least 2 years of formal general clinical training in a
5 college or university that is authorized by any state or any province of Canada to
6 grant the Degree of Doctor of Dental Surgery, Doctor of Dental Medicine, or the
7 equivalent and is recognized by the Board under § 4-302(d)(2) of this subtitle; and

8 [(3)] (2) Meets any other requirements that the Board establishes for a
9 waiver of the education requirements of § 4-302 of this subtitle.

10 (c) (1) Notwithstanding the provisions of subsection (b) of this section and §
11 4-302(g) of this subtitle, the Board may grant a waiver for a teacher's license if it
12 finds that:

13 (i) The applicant holds a Degree of Doctor of Dental Surgery,
14 Doctor of Dental Medicine, or an equivalent degree from a school, college, or faculty of
15 dentistry;

16 (ii) The applicant demonstrates that the applicant has had at least
17 5 years of clinical dental experience;

18 (iii) The applicant is found to be of good moral character and
19 professionally competent;

20 (iv) The Dean of the University of Maryland Dental School requests
21 the waiver and circumstances exist that justify the granting of a waiver; and

22 (v) The applicant is appointed to a full-time OR PART-TIME faculty
23 position at the University of Maryland Dental School.

24 (2) A teacher's license granted pursuant to a waiver under paragraph (1)
25 of this subsection:

26 (i) Authorizes the licensee to practice dentistry to the same extent
27 as other faculty members who hold general licenses to practice dentistry, provided
28 that the licensee only practices dentistry at established teaching sites and faculty
29 programs of the University of Maryland Dental School; and

30 (ii) Shall be surrendered immediately to the Board when the
31 licensee ceases to hold an appointment as a full-time OR PART-TIME faculty member
32 of the University of Maryland Dental School.

33 4-305.

34 (a) An applicant who otherwise qualifies for a general license to practice
35 dentistry or a general license to practice dental hygiene is entitled to be examined as
36 provided in this section.

1 (b) [The Board shall give examinations to applicants twice a year, at the times
2 and places that the Board determines.

3 (c) The Board shall notify each qualified applicant of the time and place of
4 examination.

5 [(d)] (C) [(1) Except as otherwise provided in this subsection, the] THE
6 Board shall determine the subjects, scope, form, and passing score for examinations
7 given under this title.

8 [(2) To the extent the Board finds practicable, the examination given to
9 applicants for a general license to practice dentistry shall be in writing.]

10 [(e)] (D) An applicant shall pay:

11 (1) To the Board an examination fee set by the Board in an amount that
12 does not exceed the costs of administering the examination; or

13 (2) To an examining body designated by the Board an examination fee
14 set by the examining body as approved by the Board.

15 [(f)] (1) An applicant who fails an examination twice shall complete 40 hours
16 of additional education in an accredited school of dentistry or a dental hygiene
17 program accredited by the American Dental Association Commission on Dental
18 Accreditation, as appropriate, before the applicant may retake the examination.

19 (2) An applicant who fails an examination 3 times shall retake and
20 successfully complete the senior year of education at an accredited school of dentistry
21 or a dental hygiene program accredited by the American Dental Association
22 Commission on Dental Accreditation, as appropriate, before the applicant may retake
23 the examination.

24 (3)] (E) An applicant who fails an examination 4 times may not be
25 [reexamined] LICENSED.

26 [(g)] (F) Consumer members of the Board may only participate in the
27 proctoring or monitoring of examinations under this title.

28 [(h)] (G) Unless authorized by the Board, a dental hygienist member of the
29 Board may not participate in any activity relating to the examination of dentists
30 under this title.

31 4-307.

32 (a) The Board shall issue the appropriate license to any applicant who meets
33 the requirements of this title for that license.

34 (b) (1) The Board shall include on each license that the Board issues:

35 (i) The name of the licensee;

- 1 (ii) The date the license was issued;
- 2 (iii) A serial number;
- 3 (iv) The signatures of the president and secretary of the Board; and
- 4 (v) The seal of the Board.

5 (2) On a limited license to practice dentistry, the Board also shall
6 include:

7 (i) The date the license expires, for a license that expires on the
8 first anniversary of its effective date; and

9 (ii) The name of the institution or public health program at which
10 the licensee is authorized to practice dentistry.

11 (3) On a teacher's license to practice dentistry, the Board also shall
12 include the name of the college or university at which the licensee is a full-time OR
13 PART-TIME faculty member.

14 (4) On a teacher's license to practice dental hygiene, the Board also shall
15 include the name of the dental school at which the licensee is a full-time OR
16 PART-TIME faculty member.

17 (c) The Board shall issue a license to replace a lost or destroyed license if the
18 licensee pays a fee [of \$5] SET BY THE BOARD THAT APPROXIMATES THE ACTUAL
19 COST OF REPLACING THE LICENSE.

20 4-309.

21 (a) (1) Except as otherwise provided in this subsection, a license expires on
22 the date set by the Board, unless the license is renewed for an additional term as
23 provided in this section. A license may not be renewed for a term longer than 2 years.

24 (2) Except as provided in § 4-303.1 of this subtitle, a limited license to
25 practice dentistry expires on the first anniversary of its effective date.

26 (3) A teacher's license to practice dentistry or a teacher's license to
27 practice dental hygiene expires on the earlier of:

28 (i) The date set by the Board, unless the license is renewed for an
29 additional term as provided in this section; or

30 (ii) The date when the licensee ceases to be a full-time OR
31 PART-TIME faculty member at the institution named on the license.

32 (b) If a teacher's license to practice dentistry expires because the licensee no
33 longer is a full-time OR PART-TIME faculty member at the institution named on the
34 license, the licensee shall surrender the license to the Board secretary within 30 days.

1 4-313.1.

2 (A) WHILE INVESTIGATING AN ALLEGATION BROUGHT AGAINST A LICENSED
3 DENTIST, LICENSED DENTAL HYGIENIST, OR CERTIFIED DENTAL RADIATION
4 TECHNOLOGIST REGULATED BY THE BOARD UNDER THIS TITLE, THE BOARD MAY
5 DIRECT THE LICENSEE OR CERTIFIED DENTAL RADIATION TECHNOLOGIST TO
6 SUBMIT TO AN APPROPRIATE EXAMINATION BY A HEALTH CARE PROVIDER
7 DESIGNATED BY THE BOARD IF THE BOARD DETERMINES THAT:

8 (1) THE LICENSED DENTIST OR LICENSED DENTAL HYGIENIST MAY
9 CAUSE HARM TO AN INDIVIDUAL AFFECTED BY THE LICENSEE'S PRACTICE OF
10 DENTISTRY OR DENTAL HYGIENE; OR

11 (2) THE CERTIFIED DENTAL RADIATION TECHNOLOGIST MAY CAUSE
12 HARM TO AN INDIVIDUAL AFFECTED BY THE CERTIFIED DENTAL RADIATION
13 TECHNOLOGIST'S PRACTICE OF DENTAL RADIATION TECHNOLOGY.

14 (B) IN RETURN FOR THE PRIVILEGE GIVEN BY THE STATE IN ISSUING A
15 LICENSE TO PRACTICE DENTISTRY OR DENTAL HYGIENE OR CERTIFICATION TO
16 PRACTICE DENTAL RADIATION TECHNOLOGY, THE LICENSEE OR CERTIFIED DENTAL
17 RADIATION TECHNOLOGIST IS DEEMED TO HAVE:

18 (1) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS SECTION,
19 IF REQUESTED BY THE BOARD IN WRITING; AND

20 (2) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE TESTIMONY OR
21 EXAMINATION REPORTS OF A HEALTH CARE PROVIDER WHO EXAMINES THE
22 LICENSEE OR CERTIFIED DENTAL RADIATION TECHNOLOGIST IN A PROCEEDING
23 BEFORE THE BOARD OR IN A COURT PROCEEDING TO WHICH BOTH THE BOARD AND
24 LICENSEE OR CERTIFIED DENTAL RADIATION TECHNOLOGIST ARE PARTIES.

25 (C) THE UNREASONABLE FAILURE OR REFUSAL OF THE LICENSEE OR
26 CERTIFIED DENTAL RADIATION TECHNOLOGIST TO SUBMIT TO AN EXAMINATION IS
27 PRIMA FACIE EVIDENCE OF THE LICENSEE'S INABILITY TO PRACTICE DENTISTRY OR
28 DENTAL HYGIENE COMPETENTLY OR THE CERTIFIED DENTAL RADIATION
29 TECHNOLOGIST'S ABILITY TO PRACTICE DENTAL RADIATION TECHNOLOGY
30 COMPETENTLY, UNLESS THE BOARD FINDS THAT THE FAILURE OR REFUSAL WAS
31 BEYOND THE CONTROL OF THE LICENSEE OR THE CERTIFIED DENTAL RADIATION
32 TECHNOLOGIST.

33 (D) THE BOARD SHALL PAY THE COSTS OF ANY EXAMINATION MADE UNDER
34 THIS SECTION.

35 4-315.

36 (a) Subject to the hearing provisions of § 4-318 of this subtitle, the Board may
37 deny a general license to practice dentistry, a limited license to practice dentistry, or
38 a teacher's license to practice dentistry to any applicant, reprimand any licensed
39 dentist, place any licensed dentist on probation, or suspend or revoke the license of
40 any licensed dentist, if the applicant or licensee:

- 1 (1) Fraudulently or deceptively obtains or attempts to obtain a license
2 for the applicant or licensee or for another;
- 3 (2) Fraudulently or deceptively uses a license;
- 4 (3) Obtains a fee by fraud or attempts to obtain a fee by fraud;
- 5 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
6 crime involving moral turpitude, whether or not any appeal or other proceeding is
7 pending to have the conviction or plea set aside;
- 8 (5) Provides professional services while:
 - 9 (i) Under the influence of alcohol; or
 - 10 (ii) Using any narcotic or controlled dangerous substance, as
11 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
12 therapeutic amounts or without valid medical indication;
- 13 (6) Practices dentistry in a professionally incompetent manner or in a
14 grossly incompetent manner;
- 15 (7) Has had a license to practice dentistry revoked or suspended in any
16 other state;
- 17 (8) Uses another person as an in-person solicitor of business;
- 18 (9) Practices or offers to practice dentistry under a name other than that
19 on the license;
- 20 (10) Uses in connection with the practice of dentistry a business entity
21 name or a trade name that is not authorized by law;
- 22 (11) Permits an unauthorized individual to practice dentistry under the
23 supervision of the applicant or licensee;
- 24 (12) Permits a dental hygienist to practice dental hygiene:
 - 25 (i) In an unauthorized place; or
 - 26 (ii) Without being supervised by a licensed dentist as required by §
27 4-308 of this title;
- 28 (13) Violates any restriction on advertising in § 4-503 of this title;
- 29 (14) Suggests, requests, or in any way directs that a patient appear at a
30 dental laboratory;
- 31 (15) Violates any provision in Subtitle 4 of this title, which relates to work
32 authorizations for dental laboratory work;

- 1 (16) Behaves dishonorably or unprofessionally, or violates a professional
2 code of ethics pertaining to the dentistry profession;
- 3 (17) Is mentally or physically incompetent to practice dentistry;
- 4 (18) Violates any rule or regulation adopted by the Board;
- 5 (19) Is disciplined by a licensing or disciplinary authority of any other
6 state or country or convicted or disciplined by a court of any state or country for an act
7 that would be grounds for disciplinary action under the Board's disciplinary statutes;
- 8 (20) Willfully makes or files a false report or record in the practice of
9 dentistry;
- 10 (21) Willfully fails to file or record any report as required by law, willfully
11 impedes or obstructs the filing or recording of the report, or induces another to fail to
12 file or record the report;
- 13 (22) Knowingly submits to a third party any claim form, bill, or statement
14 which contains any misleading, deceptive, false, incomplete, or fraudulent
15 representation asserting a fee which is greater than the fee that the dentist usually
16 accepts as payment in full for any given dental appliance, procedure, or service;
- 17 (23) Abrogates or forgives the copayment provisions of any insurance
18 policy, insurance contract, health prepayment contract, health care plan, or nonprofit
19 health service plan contract by accepting the payment received from a third party as
20 full payment, unless the dentist discloses to the third party that the patient's
21 payment portion will not be collected;
- 22 (24) Uses or promotes or causes the use of any misleading, deceiving, or
23 untruthful advertising matter, promotional literature or testimonial;
- 24 (25) (i) Except as provided in subparagraph (ii) of this paragraph,
25 divides a fee with another dentist if the division is not in proportion to the services
26 performed and the responsibility assumed by each dentist;
- 27 (ii) A dentist may divide a fee with another dentist who is a partner
28 or an associate in the same dental practice if dividing the fee does not increase the fee
29 for the service charged to the patient;
- 30 (26) Fails to comply with the provisions of § 12-102 of this article;
- 31 (27) Refuses, withholds from, denies, or discriminates against an
32 individual with regard to the provision of professional services for which the licensee
33 is licensed and qualified to render because the individual is HIV positive;
- 34 (28) Except in an emergency life-threatening situation where it is not
35 feasible or practicable, fails to comply with the Centers for Disease Control's
36 guidelines on universal precautions;

- 1 (29) Fails to display the notice required under § 4-313(d) of this title;
- 2 (30) Fails to begin to fulfill a public service requirement within 1 year of
3 when the assignment is to begin that was a condition of the applicant or licensee
4 receiving State or federal loans or scholarships for the applicant's or licensee's dental
5 education; [or]
- 6 (31) Fails to comply with any Board order; OR
- 7 (32) WILLFULLY AND WITHOUT LEGAL JUSTIFICATION FAILS TO
8 COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED BY THE BOARD.
- 9 (b) Subject to the hearing provisions of § 4-318 of this subtitle, the Board may
10 deny a general license to practice dental hygiene, a teacher's license to practice dental
11 hygiene, or a temporary license to practice dental hygiene to any applicant,
12 reprimand any licensed dental hygienist, place any licensed dental hygienist on
13 probation, or suspend or revoke the license of any licensed dental hygienist, if the
14 applicant or licensee:
- 15 (1) Fraudulently or deceptively obtains or attempts to obtain a license
16 for the applicant or licensee or for another;
- 17 (2) Fraudulently or deceptively uses a license;
- 18 (3) Behaves unprofessionally or in a grossly immoral way, or violates a
19 professional code of ethics pertaining to the dental hygiene profession;
- 20 (4) Practices dental hygiene in an unauthorized place;
- 21 (5) Practices dental hygiene in a professionally incompetent manner or
22 in a grossly incompetent manner;
- 23 (6) Is disciplined by a licensing or disciplinary authority of any other
24 state or country or convicted or disciplined by a court of any state or country for an act
25 that would be grounds for disciplinary action under the Board's disciplinary statutes;
- 26 (7) Performs intraoral functions not authorized by statute or the rules
27 and regulations of the Board;
- 28 (8) Violates the requirements of § 4-313 of this subtitle that relate to
29 display of licenses and renewal certificates;
- 30 (9) Violates any rule or regulation adopted by the Board;
- 31 (10) Is mentally or physically incompetent to practice dental hygiene;
- 32 (11) Is convicted of or pleads guilty or nolo contendere to a felony or to a
33 crime involving moral turpitude, whether or not any appeal or other proceeding is
34 pending to have the conviction or plea set aside;
- 35 (12) Provides professional services while:

- 1 (i) Under the influence of alcohol; or
- 2 (ii) Using any narcotic or controlled dangerous substance, as
3 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
4 therapeutic amounts or without valid medical indication;
- 5 (13) Willfully makes or files a false report or record in the practice of
6 dental hygiene;
- 7 (14) Willfully fails to file or record any report as required by law, willfully
8 impedes or obstructs the filing or recording of the report, or induces another to fail to
9 file or record the report;
- 10 (15) Refuses, withholds from, denies, or discriminates against an
11 individual with regard to the provision of professional services for which the licensee
12 is licensed and qualified to render because the individual is HIV positive;
- 13 (16) Except in an emergency life-threatening situation where it is not
14 feasible or practicable, fails to comply with the Centers for Disease Control's
15 guidelines on universal precautions; [or]
- 16 (17) Fails to comply with any Board order; OR
- 17 (18) WILLFULLY AND WITHOUT LEGAL JUSTIFICATION FAILS TO
18 COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED BY THE BOARD.

19 4-318.

20 (a) Except as otherwise provided in the Administrative Procedure Act, before
21 the Board takes any action under § 4-315 of this subtitle, it shall give the individual
22 against whom the action is contemplated an opportunity for a hearing before the
23 Board.

24 (b) The Board shall give notice and hold the hearing in accordance with the
25 Administrative Procedure Act.

26 [(c) At least 10 days before the hearing, the hearing notice and a copy of the
27 complaint required by § 4-316 of this subtitle shall be served on the individual by
28 delivery to the last known business and home addresses of the individual by:

29 (1) Hand delivery; or

30 (2) Certified mail, return receipt requested, bearing a postmark from the
31 United States Postal Service.]

32 [(d)] (C) In accordance with the State budget, the Board may authorize
33 payment of fees and travel expenses of witnesses who testify in a proceeding under
34 this section.

35 [(e)] (D) The individual may be represented at the hearing by counsel.

1 [(f)] (E) The Board may administer oaths and take depositions of witnesses in
2 any proceeding under this section.

3 [(g)] (F) (1) Over the signature of an officer or the administrator of the
4 Board, the Board may issue subpoenas and administer oaths to witnesses in
5 connection with any investigation under this title and any hearings or proceedings
6 before it.

7 (2) The Board shall issue subpoenas on behalf of the individual if the
8 individual requests in writing that the Board do so.

9 (3) If, without lawful excuse, a person disobeys a subpoena from the
10 Board or an order by the Board to take an oath or to testify or answer a question,
11 then, on petition of the Board, a court of competent jurisdiction may punish the
12 person as for contempt of court.

13 (4) If, without lawful excuse, an individual disobeys a subpoena from the
14 Board or an order by the Board to take an oath, testify, or answer a question, on
15 petition of the Board, a court of competent jurisdiction may compel compliance with
16 the subpoena.

17 [(h)] (G) If after due notice the individual against whom the action is
18 contemplated fails or refuses to appear, nevertheless the Board may hear and
19 determine the matter.

20 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the members
21 serving on the State Board of Dental Examiners as of October 1, 2005, shall expire as
22 follows:

23 (1) the members appointed for the term beginning October 1, 2002, on
24 May 31, 2006;

25 (2) the members appointed for the term beginning October 1, 2003, on
26 May 31, 2007;

27 (3) the members appointed for the term beginning October 1, 2004, on
28 May 31, 2008; and

29 (4) the members appointed for the term beginning October 1, 2005, on
30 May 31, 2009.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2005.