

CHAPTER 463
FORMERLY
HOUSE BILL NO. 481
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 CHAPTER 11 OF THE DELAWARE CODE RELATING
TO THE BOARD OF DENTAL EXAMINERS

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

Section 1. Amend § 1101(7), Title 24 of the Delaware Code by inserting the words “and/or periodontal disease” after the word “caries.”.

Section 2. Amend § 1101, Title 24 of the Delaware Code by inserting new defined term subsections, reading as follows, and by renumbering the remaining subsections accordingly to preserve their alphabetical order:

“‘Dental assistant’ shall mean any person not licensed to practice dentistry and/or dental hygiene in this State, who aids a dentist in the performance of generalized tasks, including chair-side aid, clerical work, reception, radiography, dental laboratory work, and any other such tasks delegated by the dentist.”.

‘Dental technician’ shall mean any person not licensed to practice dentistry in this State, engaged in the business of constructing, altering, repairing or duplicating full dentures (“plates”), partial dentures, splints, orthodontic appliances, fixed bridges or any other prosthetic appliances.’.

‘Dental auxiliary personnel’ shall mean any person not licensed to practice dentistry in this State, who works in a dental office as either a dental assistant, dental hygienist, dental technician, or otherwise.”.

Section 3. Amend §§ 1100, 1101, 1102(a), 1106(a), 1106(a)(15), 1106(b), 1121(c), 1191(a), 1194(b), 1194(d), 1197(b), 1199(a) and 1199(b) Title 24 of the Delaware Code by striking the words “State Board of Dental Examiners” each time they appear in said sections or subsections, and inserting in lieu thereof the words “State Board of Dentistry and Dental Hygiene”.

Section 4. Amend § 1102, Title 24 of the Delaware Code by inserting a new subsection (k) reading as follows: “(k) a dentist and a dental hygienist from the same practice, or two dentists from the same practice, or two dental hygienists from the same practice, may not serve on the Board or the Dental Hygiene Advisory Committee at the same time.”.

Section 5. Amend §1103(d), Title 24 of the Delaware Code by striking the reference to “§1104(c)(1),(2) and (3)” and replacing it with “§1105(c)(1)-(5).”.

Section 6. Amend § 1105(b)(4), Title 24 of the Delaware Code by striking said paragraph in its entirety and renumbering the remaining paragraphs accordingly.

Section 7. Amend § 1105(b), Title 24 of the Delaware Code by inserting a new paragraph (8) reading as follows: “(8) No two dental hygienists from the same practice may serve on the Advisory Committee at the same time.”.

Section 8. Amend § 1105(c), Title 24 of the Delaware Code by inserting new paragraphs (4) and (5), reading as follows:

“(4) Voting on disciplinary actions involving hygienists; and

(5) Voting on other matters involving the policy and practice of dental hygiene as defined in § 1101(7) and further defined in the Board's rules and regulations. The Committee shall not vote on matters involving changing the scope of practice as defined in § 1101(7)."

Section 9. Amend § 1106(a), Title 24 of the Delaware Code by striking paragraphs (3), (4) and (5) in their entirety, inserting in lieu thereof a new paragraph (3) reading as follows, and renumbering the remaining paragraphs accordingly:

"(3) Examine candidates for licensure subject to §8735 (d)(5) of Title 29;

(a) Designate the written, standardized examination administered by the National Board of Dental Examiners to be taken by all persons applying for licensure;

(b) Prepare and administer a practical examination in dentistry and dental hygiene;

(c) Designate a written jurisprudence examination on the Delaware laws pertaining to dentistry to be taken by all persons applying for licensure;"

Section 10. Amend § 1106(a)(14), Title 24 of the Delaware Code by striking the phrase "Such programs may include preceptorships and reciprocity; and".

Section 11. Amend § 1106(a), Title 24 of the Delaware Code by inserting a new paragraph (16) reading as follows: "Define three levels of supervision by rule and regulation."

Section 12. Amend Chapter 11, § 1106(a), Title 24 of the Delaware Code by inserting a new paragraph (17) reading as follows: "(17) Establish by rule and regulation the requirement to and standards for permits that authorize dentist to administer anesthetic agents."

Section 13. Amend § 1106(a), Title 24 of the Delaware Code by inserting a new paragraph (18) reading as follows: "(18) Issue subpoenas requiring the production of and receive information regarding changes in hospital privileges as a result of disciplinary or other adverse action taken by a hospital, or regarding disciplinary or other adverse action taken by a dental society against any person certified under this chapter to practice dentistry or dental hygiene."

Section 14. Amend §1122(a)(3), Title 24 of the Delaware Code by striking said paragraph in its entirety and inserting the following in lieu thereof:

"(3) Has acquired 1 year's experience as a dental intern within a general practice residency accredited by the Commission on Dental Accreditation of the American Dental Association (CODA) or has completed a CODA approved specialty residency with those specific rotations identified in the Board's rules and regulations, or if applying by reciprocity has had 3 years of active dental practice in another state or territory of the United States."

Section 15. Amend §1122(c)(2), Title 24 of the Delaware Code by striking the period "." at the end of said paragraph and inserting the following in lieu thereof: "the Board may determine, after a hearing or based on the documentation submitted, whether such administrative penalty is grounds to deny licensure."

Section 16. Amend § 1122(c), Title 24 of the Delaware Code by adding new paragraph (6) reading as follows:

"(6) Submit, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

a. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.

b. A report of the applicant's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Board of Dentistry and Dental Hygiene shall be the screening point for the receipt of said federal criminal history records.

An applicant may not be certified to practice dentistry or dental hygiene until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction may not be certified by the Board unless a waiver is granted pursuant to subparagraphs (c)(4)(a)(b) and (c) of this Section;”.

Section 17. Amend § 1122(c), Title 24 of the Delaware Code by adding a new paragraph (7) reading as follows: “(7) Shall submit to the Board a sworn or affirmed statement that the applicant is, at the time of application, physically and mentally capable of engaging in the practice of medicine according to generally accepted standards, and submit to such examination as the Board may deem necessary to determine the applicant’s capability.”.

Section 18. Amend § 1123, Title 24 of the Delaware Code by striking the phrase “An applicant for a license to practice dentistry or dental hygiene in this State shall:”, where it appears at the beginning of said Section, and by striking subsections (1), (2) and (3) in their entirety and inserting the following in lieu thereof:

“(a) An applicant applying to take the Delaware practical (clinical) examination shall submit evidence, verified by oath satisfactory to the Board, that such person:

(1) When applying as a dentist, has received a degree in dentistry from a dental college or university accredited by the Commission on Dental Accreditation of the American Dental Association;

(2) When applying as a dental hygienist, has fulfilled the requirements set forth within §1122 (b)(1-3).

(b) An applicant applying for licensure shall:

(1) Successfully pass, with a score established by the Board, a validated practical examination prepared and administered by the Board. A practical test in dentistry or dental hygiene prepared by the Board and its method of administration shall be validated as to content and scoring by a member of the faculty of an accredited school of dentistry. Such faculty member shall not be licensed to practice dentistry in Delaware and shall be agreed upon by the Division and the Board. An applicant who has failed the practical examination 3 times may not take the examination again unless the applicant can provide evidence of mitigating circumstances to the satisfaction of the Board.

(2) For licensure as a dentist, submit proof satisfactory to the Board that the applicant has successfully completed the National Board of Dental Examiners' examination in dentistry with a passing score established by the Board; for licensure as a dental hygienist, submit proof satisfactory to the Board that the applicant has successfully passed the National Board of Dental Examiners' examination in dental hygiene.

(3) For licensure as a dentist, successfully pass a written jurisprudence examination on Delaware laws pertaining to dentistry; for licensure as a dental hygienist, successfully pass a written jurisprudence examination on Delaware laws pertaining to dental hygiene. All examinations shall be approved by the Division and the Board.”.

Section 19. Amend § 1124(a)(1), Title 24 of the Delaware Code by striking the reference to “§ 1122(c)(2)-(5)” and inserting the following in lieu thereof: “§ 1122(c)(2)-(7)”.

Section 20. Amend § 1124(a), Title 24 of the Delaware Code by inserting a new paragraph “(3)” reading as follows: “(3) For licensure as a dentist, has received a degree in dentistry from an accredited dental college or university accredited by the Commission on Dental Accreditation of the American Dental Association.”, and by redesignating the current paragraphs (3) and (4) as paragraphs (4) and (5).

Section 21. Amend § 1124(b), Title 24 of the Delaware Code by striking the reference to paragraph “(4)” and inserting in lieu thereof a reference to paragraph “(5)”.

Section 22. Amend § 1126(c), Title 24 of the Delaware Code by inserting the following at the end of said subsection: “Any licensee who fails to renew on or before the renewal date, and any allowable extensions, not to exceed 1 year, will be considered a new applicant.”.

Section 23. Amend § 1126, Title 24 of the Delaware Code by re-designating subsection “(d)” as subsection “(e)” and inserting a new subsection (d) reading as follows:

“(d) Any person whose license or certificate has expired for failure to make biennial registration over a period of more than five years and who has not been in the active full-time practice or dentistry or dental hygiene in another state or territory of the United States during the previous 5 years is required, in addition to applying as a new applicant, to submit to re-examination or other formal assessment of competency as approved by the Board.”.

Section 24. Amend § 1126, Title 24 of the Delaware Code by striking the period “.” after the word “licenses” in the title of said Section and inserting the following in lieu thereof: “ ; replacement of licenses”.

Section 25. Amend § 1126, Title 24 of the Delaware Code by inserting a new subsection (f) reading as follows:

“(f). A new license to replace any license lost, destroyed or mutilated may be issued by the Division of Professional Regulations. A charge shall be made for such issuance.”.

Section 26. Amend § 1126(b) , Title 24 of the Delaware Code by striking the reference to “§1122(a)(3)” and inserting in lieu thereof a reference to “§1122(a)(4)”.

Section 27. Amend § 1129(a)(6), Title 24 of the Delaware Code by replacing the number “500” with “1,000”.

Section 28. Amend § 1129, Title 24 of the Delaware Code by inserting a new subsection (e) reading as follows:

“(e). As a condition to reinstatement of a suspended license or removal from probationary status, the Board may reinstate such license if after a hearing the Board is satisfied that the licensee has taken the prescribed corrective actions and otherwise satisfied all of the conditions of the suspension and/or the probation and can practice dentistry or dental hygiene with reasonable skill and safety to the public.”.

Section 29. Amend § 1129, Title 24 of the Delaware Code by inserting a new subsection (f) reading as follows:

“(f). Applicants for reinstatement shall pay the appropriate fees and submit documentation required by the Board as evidence that all the conditions of a suspension or probation have been met. Proof that the applicant has met the continuing education requirements of this chapter may also be required, as appropriate.”.

Section 30. Amend §1131, Title 24 of the Delaware Code by striking said Section in its entirety.

Section 31. Amend Title 24 of the Delaware Code by adding a new §1131 reading as follows:

“§ 1131. Duty to Self Report.

(a) A licensee shall self-report to the Board:

(1) Any arrest or the bringing of an indictment or information charging the licensee with a crime substantially related to the practice of dentistry and dental hygiene as defined in the Board’s rules and regulations.

(2) The conviction of the licensee, including any verdict of guilty or plea of guilty or no contest, of any crime substantially related to the practice of dentistry and dental hygiene as defined by the Board in its rules and regulations.

(b) The report required by this section shall be made in writing within 30 days of the date of the arrest, bringing of the indictment or information or of the conviction.

(c) Failure to make a report required by this section constitutes grounds for discipline under 24 Del. C. § 1128.”.

Section 32. Amend §1132(c), Title 24 of the Delaware Code by striking the reference to paragraph “(6)” and replacing it with “(7)”.

Section 33. Amend §1132A(c), Title 24 of the Delaware Code by striking the reference to paragraph “(5)” and replacing it with “(7)”.

Section 34. Amend § 1133(3), Title 24 of the Delaware Code by inserting the words “for educational purposes” after the word “demonstration” and before the words “before a dental society”.

Section 35. Amend § 1135, Title 24 of the Delaware Code by designating the current text of said Section as subsection (a), and by inserting a new subsection (b) reading as follows: “Dentists may have direct supervision of dental assistants.”.

Section 36. Amend § 1171, Title 24 of the Delaware Code by deleting the semicolon “;” after the word “dentistry”, by striking the word “penalty” in the title, and by striking the existing text of the Subsection in its entirety and inserting the following in lieu thereof:

“(a) Any dentist who practices or offers to practice dentistry or dental surgery may use a trade name that is not false, misleading or deceptive provided that the proper name of one of the owners, all of whom must be dentists, is used in conjunction with the trade name.

(b) Advertisements in any medium shall include the name, as it appears on the current biennial renewal certificate, and the degree—D.D.S. or D.M.D.—of at least one licensed dentist who is an owner of the dental facility.

(c) A directory listing all of the names of the dentists practicing at that location shall be prominently displayed in the entrance or reception area of the dental facility.

(d) The names of dentists who have practiced under the trade name shall be maintained in the records of the dental facility for at least 5 years following their departure from the practice.

(e) The use of the name of a dentist no longer actively associated with the practice may not be continued for longer than 1 year.

(f) A trade name may not include the word “clinic” unless the name designates a public or non-profit facility.

(g) A trade name may not include the word “institute” unless the name designates an educational or research facility.

(h) A trade name may not, by the use of plurals or otherwise, misrepresent the number of dentists practicing at a facility.”.

Section 37. Amend § 1175, Title 24 of the Delaware Code by replacing the numbers “500” and “2,000” with “1,000” and “5,000” respectively.

Section 38. Amend § 1177, Title 24 of the Delaware Code by replacing the numbers “100” and “200” with “1,000” and “5,000” respectively.

Section 39. Amend § 1178, Title 24 of the Delaware Code by replacing the numbers “100” “200” and “500” with “500” “1,000” and “5,000” respectively.

Section 40. Amend § 1178, Title 24 of the Delaware Code by striking the phrase “registered, or without having obtained a certificate” and inserting in lieu thereof the word “licensed,” and by striking the word “certificate” in the second sentence and inserting in lieu thereof the word “license”.

Section 41. Amend § 1178, Title 24 of the Delaware Code by striking the phrase “under the disabilities described in this section and each day on which any person offers services as a practitioner under any name except the person’s own name shall be a separate offense” and inserting in lieu thereof the words “in violation of §1177 shall be a separate offense.”.

Section 42. Amend § 1179, Title 24 of the Delaware Code by replacing the numbers “50” and “100” with “500” and “1,000” respectively.

Section 43. Amend § 1181(a), Title 24 of the Delaware Code by striking said Subsection in its entirety.

Section 44. Amend § 1181(b), Title 24 of the Delaware Code by striking the word “assistants” and inserting in lieu thereof the word “deputies”.

Section 45. Amend Chapter 11, Subchapter VI, Title 24 of the Delaware Code by changing the title of this subchapter to “Out-of-State Volunteer License” and striking the language “[Effective until July 3, 2010, subject to the provisions of 76 Del. Laws, c. 309, § 2]” from all Section titles in this subchapter.

Section 46. Amend Chapter 11, § 1176, Title 24 of the Delaware Code by striking said Section in its entirety and renumbering the subsequent subsections.

Approved July 30, 2010