

CHAPTER 150A

DENTISTRY

150A.01 Definitions.
 150A.05 Practice of dentistry.
 150A.06 Licensure.
 150A.08 Suspension, revocation, limitation, modification or denial of license.

150A.09 Registration of licenses and registration certificates.
 150A.11 Unlawful acts.

150A.01 DEFINITIONS.

[For text of subds 1 to 8, see M.S.1982]

Subd. 9. "State," when used in reference to a state other than Minnesota, means any other state of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

History: 1983 c 70 s 2

150A.05 PRACTICE OF DENTISTRY.

[For text of subd 1, see M.S.1982]

Subd. 2. **Exemptions and exceptions of certain practices and operations.** Sections 150A.01 to 150A.12 do not apply to:

- (1) A duly licensed physician and surgeon unless he practices dentistry as a specialty;
- (2) The practice of dentistry in any branch of the armed services of the United States, the United States public health service, or the United States veterans administration;
- (3) Dental schools, colleges or schools of dental hygiene, or schools of dental assisting approved by the board of dentistry, and the practice of dentistry, dental hygiene, or dental assisting by students in dental schools or colleges, graduate dental programs of the University of Minnesota or the Mayo Foundation, schools of dental hygiene, or schools of dental assisting approved by the board, when acting under the direction and supervision of licensed dentists acting as instructors;
- (4) The practice of dentistry by licensed dentists of other states or countries while appearing as clinicians under the auspices of a duly approved dental school or college, or a reputable dental society, or a reputable dental study club composed of dentists;
- (5) The actions of persons while they are taking examinations for licensure or registration administered or approved by the board pursuant to section 150A.03, subdivision 1, and section 150A.06, subdivisions 1, 2, and 2a;
- (6) The practice of dentistry by dentists and dental hygienists licensed by other states during their functioning as examiners responsible for conducting licensure or registration examinations administered by regional and national testing agencies with whom the board is authorized to affiliate and participate under section 150A.03, subdivision 1, and the practice of dentistry by the regional and national testing agencies during their administering examinations pursuant to section 150A.03, subdivision 1;

(7) The use of roentgens or other rays for making roentgenograms or similar records of dental or oral tissues in a hospital under the supervision of a physician or dentist; or

(8) The service, other than service performed directly upon the person of a patient, of constructing, altering, repairing, or duplicating any denture, partial denture, crown, bridge, splint, orthodontic, prosthetic, or other dental appliance, when performed according to a written work order from a licensed dentist in accordance with section 150A.10, subdivision 3.

History: 1983 c 29 s 1; 1983 c 70 s 3

150A.06 LICENSURE.

Subdivision 1. **Dentists.** A person of good moral character not already a licensed dentist of the state, having submitted an application and fee as prescribed by the board and his diploma or equivalent from a dental college approved by the board may be examined by the board or by an agency pursuant to section 150A.03, subdivision 1, in a manner to test the applicant's fitness to practice dentistry. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants may take the examination prior to applying to the board for licensure. The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the clinical examination required by the board after failing it twice until he obtains further education and training as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b and meets all other requirements of the board shall be licensed to practice dentistry and supplied with a license by the board.

Subd. 2. **Dental hygienists.** A person of good moral character not already a licensed dental hygienist of this state, who has graduated from an accredited high school or its equivalent, and has submitted an application and fee as prescribed by the board and his diploma or equivalent from a training school for dental hygienists or its equivalent approved by the board, may be examined by the board or by an agency pursuant to section 150A.03, subdivision 1, in a manner to test the applicant's fitness to practice dental hygiene. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants may take the examination before applying to the board for licensure. Each applicant shall also be examined on the applicant's knowledge of the laws of Minnesota relating to dentistry and of the rules of the board. An applicant is ineligible to retake the clinical examination required by the board after failing it twice until he obtains further education and training as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b and meets all the other requirements of the board shall be licensed as a dental hygienist and supplied with a license by the board.

Subd. 2a. **Registered dental assistant.** A person of good moral character, who has submitted an application and fee as prescribed by the board and his diploma or equivalent from a training school for dental assistants or its equivalent approved by the board, may be examined by the board or by an agency pursuant to section 150A.03, subdivision 1, in a manner to test the applicant's fitness to perform as a registered dental assistant. The diploma or its equivalent must evidence compliance with the time limit requirement of subdivision 7. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants

may take the examination before applying to the board for registration. The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the clinical examination required by the board after failing it twice until he obtains further education and training as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b and meets all the other requirements of the board shall be registered as a dental assistant. The examination fee set by the board in rule is the application fee until the board amends, repeals, or otherwise changes the rules pursuant to chapter 14.

Subd. 2b. Examination. When board members administer the examination for licensure or registration, only those board members qualified for the particular examination may administer it. An examination which the board requires as a condition of licensure or registration must have been taken within the five years before the board receives the application for licensure or registration.

Subd. 3. Waiver of examination. All or any part of the examination for dentists or dental hygienists, except that pertaining to the law of Minnesota relating to dentistry and the rules of the board, may, at the discretion of the board, be waived for an applicant who presents a certificate of qualification from the national board of dental examiners or evidence of having maintained an adequate scholastic standing as determined by the board, in dental school as to dentists, or dental hygiene school as to dental hygienists.

Subd. 4. Licensure by credentials. Any person who is lawfully practicing dentistry or dental hygiene in another state or Canadian province having and maintaining a standard of examination for licensure and of laws regulating the practice within that state or Canadian province, substantially equivalent to Minnesota's, as determined by the board, who is a reputable dentist or dental hygienist of good moral character, and who deposits, in person, with the board of dentistry a certificate from the board of dentistry of the state or Canadian province in which he is licensed, certifying to the fact of his licensure and that he is of good moral character and professional attainments, shall, upon payment of the fee established by the board, be interviewed by the board. The interview shall consist of assessing the applicant's knowledge of dental subjects. If the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivisions 1 and 2, the application shall be denied. When denying a license, the board may notify the applicant of any specific course that the applicant could take which, if passed, would qualify the applicant for licensure. The denial shall not prohibit the applicant from applying for licensure under subdivisions 1 and 2. If the applicant demonstrates the minimum knowledge in dental subjects required for licensure under subdivisions 1 and 2 and meets the other requirements of this subdivision, he shall be granted a license to practice in this state, if he passes an examination on the laws of Minnesota relating to dentistry and the rules of the board of dentistry.

Subd. 5. Fraud in securing licenses. Every person implicated in employing fraud or deception in applying for or securing a license to practice dentistry or dental hygiene or in applying for or securing a registration to practice dental assisting or in annually registering a license or registration under sections 150A.01 to 150A.12 is guilty of a gross misdemeanor.

Subd. 6. Display of name and certificates. Every licensed dentist, dental hygienist, or registered dental assistant shall keep conspicuously displayed his name, license certificate and annual registration certificate in every office in which he practices, in plain sight of his patients. If there is more than one dentist, dental

hygienist, or registered dental assistant practicing or employed in any office, the manager or proprietor of the office shall display in plain sight the name, license certificate and annual registration certificate of each dentist, dental hygienist, or registered dental assistant practicing or employed there. Near or on the entrance door to every office where dentistry is practiced, the name of each dentist practicing there, as inscribed on the license certificate and annual registration certificate of each dentist, shall be displayed in plain sight.

Subd. 7. **Specific graduation requirement.** An applicant shall not be initially registered as a dental assistant if his graduation from a school of professional training occurred more than five years before the date the application is received by the board, unless the applicant for registration has been registered or otherwise credentialed to perform the duties, for which registration is sought, by another state or country or by the United States government. The board may, by rule, establish additional educational requirements for licensure of an applicant governed by this subdivision.

History: 1983 c 70 s 4

150A.08 SUSPENSION, REVOCATION, LIMITATION, MODIFICATION OR DENIAL OF LICENSE.

Subdivision 1. **Grounds.** The board may refuse or by order suspend or revoke, limit or modify by imposing conditions it deems necessary, any license to practice dentistry or dental hygiene or the registration of any dental assistant upon any of the following grounds:

(1) Fraud or deception in connection with the practice of dentistry or the securing of a license or annual registration certificate;

(2) Conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of a felony or gross misdemeanor reasonably related to the practice of dentistry as evidenced by a certified copy of the conviction;

(3) Conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of an offense involving moral turpitude as evidenced by a certified copy of the conviction;

(4) Habitual overindulgence in the use of intoxicating liquors;

(5) Improper or unauthorized prescription, dispensing, administering, or personal or other use of any legend drug as defined in chapter 151, of any chemical as defined in chapter 151, or of any controlled substance as defined in chapter 152;

(6) Conduct unbecoming a person licensed to practice dentistry or dental hygiene or registered as a dental assistant, or conduct contrary to the best interest of the public, as such conduct is defined by the rules of the board;

(7) Gross immorality;

(8) Any physical, mental, emotional, or other disability which adversely affects a dentist's, dental hygienist's, or registered dental assistant's ability to perform the service for which the person is licensed or registered;

(9) Revocation or suspension of a license, registration, or equivalent authority to practice, or other disciplinary action or denial of a license or registration application taken by a licensing, registering, or credentialing authority of another state, territory, or country as evidenced by a certified copy of the licensing authority's order, if the disciplinary action or application denial was based on facts that would provide a basis for disciplinary action under this chapter and if the action was taken only after affording the credentialed person or applicant notice

and opportunity to refute the allegations or pursuant to stipulation or other agreement;

(10) Failure to maintain adequate safety and sanitary conditions for a dental office in accordance with the standards established by the rules of the board;

(11) Employing, assisting, or enabling in any manner an unlicensed person to practice dentistry;

(12) Failure or refusal to attend, testify, and produce records as directed by the board under subdivision 7; or

(13) Violation of, or failure to comply with, any other provisions of sections 150A.01 to 150A.12, the rules of the board of dentistry, or any disciplinary order issued by the board or for any other just cause related to the practice of dentistry. Suspension, revocation, modification or limitation of any license shall not be based upon any judgment as to therapeutic or monetary value of any individual drug prescribed or any individual treatment rendered, but only upon a repeated pattern of conduct.

Subd. 3. Reinstatement. Any licensee or registrant whose license or registration has been suspended or revoked may have his license or registration reinstated or a new license or registration issued, as the case may be, when the board deems the action is warranted. The board may require the licensee or registrant to pay all costs of proceedings resulting in his suspension or revocation of license or registration and reinstatement or new license and the fee for reinstatement established by the board. Any licensee or registrant who has been disciplined by the board in a manner other than by suspension or revocation may be required by the board to pay all costs of proceedings resulting in the disciplinary action.

[For text of subd 4, see M.S.1982]

Subd. 5. Medical examinations. If the board has probable cause to believe that a dentist, dental hygienist, registered dental assistant, or applicant engages in acts described in subdivision 1, clause (4) or (5), or has a condition described in subdivision 1, clause (8), it shall direct the dentist, dental hygienist, assistant, or applicant to submit to a mental or physical examination or a chemical dependency assessment. For the purpose of this subdivision, every dentist, hygienist, or assistant licensed or registered under this chapter or person submitting an application for a license or registration is deemed to have given consent to submit to a mental or physical examination when directed in writing by the board and to have waived all objections in any proceeding under this section to the admissibility of the examining physician's testimony or examination reports on the ground that they constitute a privileged communication. Failure to submit to an examination without just cause may result in an application being denied or a default and final order being entered without the taking of testimony or presentation of evidence, other than evidence which may be submitted by affidavit, that the licensee, registrant, or applicant did not submit to the examination. A dentist, dental hygienist, registered dental assistant, or applicant affected under this section shall at reasonable intervals be afforded an opportunity to demonstrate that he can start or resume the competent practice of dentistry or perform the duties of a dental hygienist or registered dental assistant with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board is admissible, is subject to subpoena, or may be used against the dentist, dental hygienist, registered dental assistant, or applicant in any proceeding not commenced by the board. Information obtained under this subdivision shall be classified as private pursuant to the Minnesota Government Data Practices Act.

Subd. 6. **Medical records.** Notwithstanding contrary provisions of sections 13.42 and 144.651 or any other statute limiting access to medical or other health data, the board may obtain medical data and health records of a licensee, registrant, or applicant without the licensee's, registrant's, or applicant's consent if the information is requested by the board as part of the process specified in subdivision 5. The medical data may be requested from a provider, as defined in section 144.335, subdivision 1, clause (b), an insurance company, or a government agency, including the department of public welfare. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and shall not be liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision shall be classified as private under the Minnesota Government Data Practices Act.

Subd. 7. **Self-incrimination.** No person is excused from attending and testifying at any proceeding initiated by the board or from producing any document before the board on the ground that the testimony or evidence required may tend to incriminate him or her; but no person may be prosecuted for any crime related to the matter about which the person testifies or produces evidence required or requested by the board if the person first claims a privilege against self-incrimination. This immunity from criminal prosecution does not apply to prosecution for perjury or contempt committed in testifying or producing the evidence.

Subd. 8. **Suspension of license.** In addition to any other remedy provided by law, the board may, through its designated board members pursuant to section 214.10, subdivision 2, temporarily suspend a license or registration without a hearing if the board finds that the licensee or registrant has violated a statute or rule which the board is empowered to enforce and continued practice by the licensee or registrant would create an imminent risk of harm to others. The suspension shall take effect upon written notice to the licensee or registrant served by first class mail specifying the statute or rule violated, and the time, date, and place of the hearing before the board. If the notice is returned by the post office, the notice shall be effective upon reasonable attempts to locate and serve the licensee or registrant. Within ten days of service of the notice, the board shall hold a hearing before its own members on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the board, licensee, or registrant, shall be in affidavit form only. The licensee or registrant or his counsel may appear for oral argument. Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act within 45 days of issuance of the order. The hearing examiner shall issue a report within 30 days of the closing of the contested case hearing record. The board shall issue a final order within 30 days of receiving that report.

History: 1983 c 70 s 5-10

150A.09 REGISTRATION OF LICENSES AND REGISTRATION CERTIFICATES.

Subdivision 1. **Registration information and procedure.** On or before the license or registration certificate expiration date every licensed dentist, dental hygienist, and registered dental assistant shall transmit to the executive secretary of the board, pertinent information required by the board, together with the fee

established by the board. At least 30 days before a license or registration certificate expiration date, the board shall send a written notice stating the amount and due date of the fee and the information to be provided to every licensed dentist, dental hygienist, and registered dental assistant.

Subd. 3. Current address, change of address. Every dentist, dental hygienist, and registered dental assistant shall maintain with the board a correct and current mailing address. For dentists engaged in the practice of dentistry, the address shall be that of the location of the primary dental practice. Within 30 days after changing addresses, every dentist, dental hygienist, and registered dental assistant shall provide the board written notice of the new address either personally or by first class mail.

Subd. 4. Duplicate certificates. Duplicate licenses or duplicate annual certificates of license renewal may be issued by the board upon satisfactory proof of the need for the duplicates and upon payment of the fee established by the board.

Subd. 5. Late fee. A late fee established by the board shall be paid if the information and fee required by subdivision 1 is not received by the executive secretary of the board on or before the registration or license renewal date.

Subd. 6. Continuing education sponsorship fee. The board may establish an application and renewal fee to be paid by any person who applies to be approved as a continuing dental education sponsor.

History: 1983 c 70 s 11

150A.11 UNLAWFUL ACTS.

Subdivision 1. Unlawful practice. It is unlawful for any person to: enable an unlicensed person to practice dentistry; to practice or attempt to practice dentistry without a license; to practice dentistry under the name of a corporation or company; or to practice under any name that may tend to deceive the public or imply professional superiority to or greater skill than that possessed by another dentist. If a dentist practices under his own name, any public display or cards shall include the initials of his dental degree, such as D.D.S. or D.M.D., following the name. If a dentist practices under a name other than his own, the name shall include some designation which makes clear that the person is practicing dentistry or a specialty of dentistry; and that the names of all of the participating dentists practicing under the name be clearly identified on letterheads and building or office signs that display a name other than the dentist's own name. Any communication between dentist and patient shall clearly indicate the name of the dentist treating the patient. The board may promulgate rules regarding the name under which a dentist may practice. No corporation shall practice dentistry or engage in it, or hold itself out as being entitled to practice dentistry, or furnish dental services or dentists, or advertise under or assume the title of dentists or dental surgeons or equivalent title. No corporation shall furnish dental advice, or advertise or hold itself out with any other person or alone, that it has or owns a dental office or can furnish dental service, dentists, or dental surgeons, or solicit, through itself, or its agents, officers, employees, directors or trustees, dental patronage for any dentist or dental surgeon. This section:

(1) Does not apply to any licensee while acting as an instructor in or under the University of Minnesota, the Mayo Foundation, or any other school in the state recognized by the state board of dentistry;

(2) Does not prohibit any dentist from incorporating his practice of dentistry for business purposes under the special provisions of a corporate practice act for dentistry;

(3) Shall not be construed to change or amend the right of licensed dentists to provide dental care under any form of organization that is lawful under the laws of this state, or to contract to sell their services in any manner that is lawful under the laws of this state.

[For text of subds 2 to 4, see M.S.1982]

History: 1983 c 29 s 2