

ACT No. 2008- 279

1 HB205
2 101728-2
3 By Representative Jackson
4 RFD: Health
5 First Read: 05-FEB-08

COPIES



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ENROLLED, An Act,

Relating to the practice of dentistry; to add Section 34-9-6.1 to the Code of Alabama 1975, to allow the operation of mobile dental facilities or portable dental operations under the authority of the Board of Dental Examiners of Alabama; and to further provide for the continued licensing of certain nonprofit entities employing dentists licensed in this state.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 34-9-6.1 is added to the Code of Alabama 1975, to read as follows:

§34-9-6.1.

(a) For purposes of this section, the following words have the following meanings:

(1) DENTAL HOME. The dental home is the ongoing relationship between the dentist and the patient, inclusive of all aspects of oral health care delivered in a comprehensive, continuously accessible, coordinated, and family-centered way.

(2) MOBILE DENTAL FACILITY or PORTABLE DENTAL OPERATION. Any self-contained facility in which dentistry or dental hygiene is practiced which may be moved, towed, or transported from one location to another.

(3) OPERATOR. A person licensed to practice dentistry in this state or an entity which is approved as tax

1 exempt under Section 501(c)(3) of the Internal Revenue Code
2 which employs dentists licensed in the state to operate a
3 mobile dental facility or portable dental operation.

4 (b) In order to operate a mobile dental facility or
5 portable dental operation, an operator shall first obtain a
6 certificate of registration issued by the Board of Dental
7 Examiners. The operator shall complete an application in the
8 form and manner required by the board and shall meet all
9 qualifications established by rules of the board.

10 (c) A mobile dental facility or portable dental
11 operation shall comply with all of the following requirements:

12 (1) The operator shall maintain an official business
13 address which shall not be a post office box and which shall
14 be within this state and be associated with an established
15 dental facility which shall have an official business address
16 on record with the Board of Dental Examiners. The address
17 shall be filed with the board as part of the application for a
18 certificate of registration.

19 (2) The operator shall maintain an official
20 telephone number of record which shall be accessible 24 hours
21 a day and which shall be filed with the board as part of the
22 application for a certificate of registration. The telephone
23 number shall have 911 capability.

24 (3) The board shall be notified within 30 days of
25 any change in address, location, or telephone number of

1 record. The notification shall also include the method by
2 which patients are notified of the change of address,
3 location, or telephone number of record. For purposes of this
4 subdivision, patient shall mean any individual who has
5 received treatment or consultation of any kind within two
6 years of the date of the proposed change of address, location,
7 or telephone number of record.

8 (4) All written or printed documents available from
9 or issued by the mobile dental facility or portable dental
10 operation shall contain the official business address and
11 telephone number of record for the mobile dental facility or
12 portable dental operation.

13 (5) When not in transit, all dental and official
14 records shall be maintained at the official business address.

15 (6) The operator shall maintain a written procedure
16 for emergency follow-up care for patients treated in a mobile
17 dental facility or a portable dental operation, which includes
18 arrangements for treatment in a dental facility that is
19 permanently established in the area within a 50-mile radius
20 where services are provided subject to a qualified dentist
21 being located in the area and subject to the dentist agreeing
22 to provide follow-up care. An operator who either is unable to
23 identify a qualified dentist in the area or is unable to
24 arrange for emergency follow-up care for patients otherwise
25 shall be obligated to provide the necessary follow up via the

1 mobile dental facility or portable dental operation or the
2 operator may choose to provide the follow-up care at his or
3 her established dental practice location in the state or at
4 any other established dental practice in the state which
5 agrees to accept the patient. An operator who fails to arrange
6 or provide follow-up care as required herein shall be
7 considered to have abandoned the patient, and will subject the
8 operator and any dentist or dental hygienist, or both, who
9 fail to provide the referenced follow-up treatment to
10 disciplinary action by the board.

11 (7) The mobile dental facility or a portable dental
12 operation shall have communication facilities that will enable
13 the operator to contact necessary parties in the event of a
14 medical or dental emergency. The communication facilities
15 shall enable the patient or the parent or guardian of the
16 patient treated to contact the operator for emergency care,
17 follow-up care, or information about treatment received. The
18 provider who renders follow-up care must also be able to
19 contact the operator and receive treatment information,
20 including radiographs.

21 (8) The mobile dental facility or a portable dental
22 operation and the dental procedures performed therein shall
23 comply with all applicable federal and state laws and all
24 applicable rules of the board promulgated pursuant to Section
25 34-9-43.

1 (9) Any driver of a mobile dental facility or a
2 portable dental operation shall possess a valid Alabama
3 driver's license appropriate for the operation of the vehicle.
4 A copy of the driver's license of each driver shall be
5 submitted to the board at least 30 days prior to the
6 individual operating a mobile dental facility or a portable
7 dental operation.

8 (10) All mobile dental facilities or portable dental
9 operations authorized in this act which are a vehicle or which
10 are to be towed or otherwise transported by another vehicle
11 shall be registered in this state.

12 (11) The operator of a mobile dental facility or a
13 portable dental operation shall not perform services on a
14 minor without the signed consent from the parent or guardian
15 which form shall be established by the board. The consent form
16 shall inquire whether the prospective patient has received
17 dental care from a licensed dentist within one year and if so,
18 the consent form shall request the name, address, and phone
19 number of the dental home. If the information provided to the
20 operator does not identify a dental home for the prospective
21 patient, the operator shall contact the Alabama Medicaid
22 Agency for assistance in identifying a dental home for
23 Medicaid eligible patients. If this information is provided to
24 the operator, the operator shall contact the designated dental
25 home by phone, facsimile, or electronic mail and notify the

1 dental home of the prospective patient's interest in receiving
2 dental care from the operator. If the dental home confirms
3 that an appointment for the prospective patient is scheduled
4 with the dentist, the operator shall encourage the prospective
5 patient or his or her guardian to seek care from the dental
6 home. The consent form shall document that the patient, or
7 legal guardian, understands the prospective patient has an
8 option to receive dental care from either the mobile dental
9 facility or portable dental operation or his or her designated
10 dental home if applicable. The consent form shall require the
11 signature of a parent or legal guardian.

12 (12) Each operator of a mobile dental facility or a
13 portable dental operation shall maintain a written or
14 electronic record detailing for each location where services
15 are performed all of the following information:

- 16 a. The street address of the service location.
17 b. The dates of each session.
18 c. The number of patients served.
19 d. The types of dental services provided and the
20 quantity of each service provided.
21 e. Any other information requested by rule of the
22 board.

23 (13) The written or electronic record shall be made
24 available to the board within 10 days of a request.

1 (14) Each mobile dental facility or a portable
2 dental operation must possess all applicable county and city
3 licenses or permits to operate at each location.

4 (d) The mobile dental facility or a portable dental
5 operation shall comply with the following physical
6 requirements and inspection criteria:

7 (1) Ready access in a ramp or lift.

8 (2) A properly functioning sterilization system.

9 (3) Ready access to an adequate supply of potable
10 water, including hot water.

11 (4) A covered galvanized, stainless steel, or other
12 noncorrosive container for deposit of refuse and waste
13 materials.

14 (5) For operators applying for a certificate of
15 registration after July 1, 2008, who have not been issued a
16 certificate prior to that date, ready access to toilet
17 facilities which shall be located within the mobile dental
18 facility or portable dental operation. Operators applying for
19 a certificate prior to July 1, 2008, are not required to meet
20 this requirement. Any non-profit governmental entity operating
21 a portable dental operation within an existing building shall
22 only be required to have ready access to toilet facilities
23 within the building.

24 (e) The mobile dental facility or a portable dental
25 operation shall be inspected by the board or its

1 representative prior to receiving a certificate of
2 registration. Once registered, the mobile dental facility or a
3 portable dental operation shall be subject to periodic
4 unannounced audits and inspections by the board.

5 (f) The mobile dental facility or a portable dental
6 operation shall comply with the current recommendations for
7 infection control practices for dentistry as promulgated by
8 the Centers for Disease Control and any rule of the board
9 relating to infection control or reporting in a dental office.

10 (g) The initial application for a certificate of
11 registration shall include the full name, address, and
12 telephone number of the dentists and dental hygienists working
13 at the facility or operation. The initial application for a
14 certificate of registration shall also include proof of
15 insurance from a licensed insurance carrier that the operator
16 has in force at least one million dollars (\$1,000,000) of
17 general liability insurance. The operator shall be required to
18 maintain one million dollars (\$1,000,000) of general liability
19 insurance at all times for which the mobile dental facility or
20 portable dental operation is licensed by the Board of Dental
21 Examiners. Governmental entities which operate mobile dental
22 facilities or portable dental operations shall not be required
23 to have or maintain any amount of general liability insurance.
24 The operator shall advise the board in writing within 15 days

1 of any change in the employment of any dentist or dental
2 hygienist working at the facility or operation.

3 (h) The operator shall notify the board in writing
4 within 10 days of any change made relating to a dentist to
5 whom patients are to be referred for follow-up care as
6 provided in subdivision (6) of subsection (c).

7 (i) The operator shall notify the board in writing
8 within 10 days of any change in the procedure for emergency
9 follow-up care as provided in subdivision (6) of subsection
10 (c).

11 (j) At the conclusion of each patient's visit to the
12 mobile dental facility or a portable dental operation, the
13 patient shall be provided with a patient information sheet
14 which shall also be provided to any individual or entity to
15 whom the patient has consented or authorized to receive or
16 access the patient's records. The information sheet shall
17 include at a minimum the following information:

18 (1) The name of the dentist or dental hygienist, or
19 both, who performed the services.

20 (2) A description of the treatment rendered,
21 including billing service codes and fees associated with
22 treatment and tooth numbers when appropriate.

23 (3) If applicable, the name, address, and telephone
24 number of any dentist to whom the patient was referred for
25 follow-up care and the reason for such referral.

1 (4) The name, address, and telephone number, if
2 applicable, of a parent or guardian of the patient.

3 (k) In the event a mobile dental facility or a
4 portable dental operation is to be sold, the current operator
5 shall inform the board and the Alabama Medicaid Agency, if the
6 operator is an Alabama Medicaid enrolled provider, at least 10
7 days prior to the sale being completed and shall be required
8 to disclose the purchaser to the board and the Alabama
9 Medicaid Agency, if the operator is an Alabama Medicaid
10 enrolled provider, via certified mail within 10 days after the
11 date the sale is finalized. The operator of a mobile dental
12 facility or a portable dental operation shall notify the board
13 and the Alabama Medicaid Agency, if the operator is an Alabama
14 Medicaid enrolled provider, at least 30 days prior to
15 cessation of operation. Such notification shall include the
16 final day of operation and a copy of the notification shall be
17 sent to all patients and shall include the manner and
18 procedure by which patients may obtain their records or
19 transfer those records to another dentist. It is the
20 responsibility of the operator to take all necessary action to
21 insure that the patient records are available to the patient,
22 a duly authorized representative of the patient, or a
23 subsequent treating dentist. For purposes of this subsection,
24 a patient shall mean any individual who has received any
25 treatment or consultation of any kind within two years of the

1 last date of operation of the mobile dental facility or a
2 portable dental operation.

3 (l) A mobile dental facility or a portable dental
4 operation that accepts or treats a patient but does not refer
5 patients for follow-up treatment when such follow-up treatment
6 is clearly necessary, shall be considered to have abandoned
7 the patient and will subject the operator and any dentist or
8 dental hygienist, or both, who fails to provide the referenced
9 follow-up treatment to disciplinary action by the board.

10 (m) In addition to the requirements of this section,
11 any operator, dentist, or dental hygienist working or
12 performing any services at a mobile dental facility or a
13 portable dental operation shall be subject to the provisions
14 of this chapter. Any violation of the provisions of this
15 section shall subject the operator, dentist, or dental
16 hygienist to the penalties provided in Section 34-9-18, and no
17 order imposing penalties pursuant to Section 34-9-18 shall be
18 made or entered except after notice and hearing by the board
19 with any such order being subject to judicial review.

20 (n) The board may promulgate rules to implement and
21 enforce the provisions of this section.

22 (o) The provisions of this section shall not apply
23 to any existing Jefferson County Department of Health mobile
24 dental facilities or portable dental operations that have been

1 in service providing dental care within Jefferson County prior
2 to December 31, 2007.

3 (p) This section shall not apply to any mobile
4 dental facility or portable dental operation which is operated
5 during a state of emergency declared by the Governor as
6 authorized in Section 31-9-8.

7 (q) It is the express intent of the Legislature that
8 no state agency, including, but not limited to, the Alabama
9 Medicaid Agency, shall restrict any mobile dental facility or
10 portable dental operation which complies with the provisions
11 outlined herein and all applicable state and federal rules
12 from participation in its programs.

13 Section 2. This act shall be known as the "Alabama
14 Mobile Access to Dental Care Act."

15 Section 3. Notwithstanding any other provision of
16 law, any entity which is approved as tax exempt under Section
17 501(c)(3) of the Internal Revenue Code and employs dentists
18 licensed in this state shall continue to be able to employ
19 dentists licensed in this state and to provide dental services
20 in the same manner and under the same conditions as licensed
21 on the effective date of this act.

22 Section 4. This act shall become effective 30 days
23 following its passage and approval by the Governor, or its
24 otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 06-MAR-08, as amended.

Greg Pappas
Clerk

Senate	30-APR-08	Amended and Passed
House	01-MAY-08	Concurred in Senate Amendment

APPROVED May 8, 2008
TIME 10:45 a.m.

GOVERNOR

Alabama Secretary Of State

Act Num....: 2008-279
Bill Num....: H-205

Recv'd 05/08/08 01:25pmJJB