

1 HB99
2 108640-3
3 By Representative Sherer
4 RFD: Boards and Commissions
5 First Read: 03-FEB-09
6 PFD: 01/13/2009



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ENROLLED, An Act,

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Dental Examiners of Alabama until October 1, 2010, with certain modifications; to amend Sections 34-9-1, 34-9-9, 34-9-10, 34-9-11, 34-9-15, 34-9-16, 34-9-17, 34-9-18, 34-9-19, 34-9-26, 34-9-28, 34-9-40, 34-9-41, 34-9-43, 34-9-60, 34-9-61, 34-9-63, 34-9-64, 34-9-81, and 34-9-88, Code of Alabama 1975, and to add Section 34-9-15.1 to the Code of Alabama 1975, relating to the practice of dentistry, provide further for licensing, definitions, disciplinary actions, composition of the board, and provision of dental records to patients and allow the Board of Dental Examiners to establish reasonable fees.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the Board of Dental Examiners of Alabama until October 1, 2010, with the additional recommendation for statutory change as set out in Sections 3 and 4.

Section 2. The existence and functioning of the Board of Dental Examiners of Alabama, created and functioning pursuant to Sections 34-9-1 to 34-9-90, inclusive, Code of Alabama 1975, is continued until October 1, 2010, and those code sections are expressly preserved.

1 Section 3. Sections 34-9-1, 34-9-9, 34-9-10,
2 34-9-11, and 34-9-15, Code of Alabama 1975, are amended to
3 read as follows:

4 "§34-9-1.

5 "For the purposes of this chapter, the following
6 terms shall have the respective meanings ascribed by this
7 section:

8 "(1) ANNUAL REGISTRATION. The documentary evidence
9 that the board has renewed the authority of the licensee to
10 practice dentistry or dental hygiene in this state.

11 "(2) BOARD. The Board of Dental Examiners of
12 Alabama.

13 "(3) COMMERCIAL DENTAL LABORATORY. A technician or
14 group of technicians available to any or all licensed dentists
15 for construction or repair of dental appliances.

16 "(4) GENERAL ANESTHESIA. A controlled state of
17 unconsciousness, accompanied by a partial or complete loss of
18 protective reflexes, including inability to independently
19 maintain an airway and respond purposefully to physical
20 stimulation or verbal command, produced by a pharmacologic
21 method.

22 "(5) LICENSE. The grant of authority by the board to
23 a person to engage in the practice of dentistry or dental
24 hygiene.

1 "(6) LICENSE CERTIFICATE. The documentary evidence
2 under seal of the board that said board has granted authority
3 to the licensee to practice dentistry or dental hygiene in
4 this state.

5 "(7) LICENSED DENTIST. A dentist who holds a current
6 license certificate from the board.

7 "~~(7)~~ (8) LOCAL ANESTHESIA. The elimination of
8 sensations, especially pain in one part of the body by topical
9 application or regional injection of a drug.

10 "(9) LICENSED HYGIENIST. A hygienist who holds a
11 current license certificate from the board.

12 "~~(8)~~ (10) PRACTICE OF DENTISTRY ACROSS STATE LINES.

13 "a. The practice of dentistry as defined in Section
14 34-9-6 as it applies to the following:

15 "1. The rendering of a written or otherwise
16 documented professional opinion concerning the diagnosis or
17 treatment of a patient located within this state by a dentist
18 located outside this state as a result of transmission of
19 individual patient data by electronic or other means from
20 within this state to the dentist or his or her agent.

21 "2. The rendering of treatment to a patient located
22 within this state by a dentist located outside this state as a
23 result of transmission of individual patient data by
24 electronic or other means from this state to the dentist or
25 his or her agent.

1 "3. The holding of himself or herself out as
2 qualified to practice dentistry, or use any title, word, or
3 abbreviation to indicate or induce others to believe that he
4 or she is licensed to practice dentistry across state lines.

5 "b. This definition is not intended to include an
6 informal consultation between a licensed dentist located in
7 this state and a dentist located outside this state provided
8 that the consultation is conducted without compensation or the
9 expectation of compensation to either dentist, and does not
10 result in the formal rendering of a written or otherwise
11 documented professional opinion concerning the diagnosis or
12 treatment of a patient by the dentist located outside the
13 state.

14 "~~9~~ (12) PRIVATE TECHNICIANS. A technician employed
15 by a dentist or group of dentists for a specified salary.

16 "~~10~~ (13) SEDATION. A depressed level of
17 consciousness that retains the patient's ability to
18 independently and continuously maintain an airway and respond
19 appropriately to physical stimulation or verbal command,
20 produced by a pharmacologic method.

21 "§34-9-9.

22 "(a) No person other than a dentist licensed
23 pursuant to this chapter may:

24 "(1) Employ a dentist, dental hygienist or both in
25 the operation of a dental office;

1 "(2) Place in the possession of a dentist, dental
2 hygienist or other agent such dental material or equipment as
3 may be necessary for the management of a dental office on the
4 basis of a lease or any other agreement for compensation for
5 the use of such material, equipment or offices; or

6 "(3) Retain the ownership or control of dental
7 equipment, material, or office and make the same available in
8 any manner for the use of a dentist, dental hygienist or other
9 agent.

10 "(4) The term "person" as used in this section,
11 shall not in any way pertain to state, county, municipal or
12 city institutions but shall be deemed to include any
13 individual, firm, partnership, corporation or other entity not
14 licensed to practice dentistry in the State of Alabama.

15 "(5) Nothing in this subsection shall apply to bona
16 fide sales of dental equipment, material or office secured by
17 a chattel mortgage or retention title agreement, or to an
18 agreement for the rental of the equipment or office by bona
19 fide lease at a reasonable amount, and under which agreement
20 the licensee under this chapter maintains complete care,
21 custody, and control of said equipment and his practice.
22 Further, nothing in this subsection shall prohibit or restrict
23 persons, firms or corporations from employing or retaining
24 licensed dentists to furnish dental treatment for their
25 employees or dependents of their employees.

1 "(b) A prohibited business arrangement or
2 relationship as defined in subsection (a) above shall not be
3 considered a violation of that subsection if a prohibited
4 arrangement or relationship results from the death of a
5 licensed dentist and is cured within 12 months of the date of
6 the death.

7 "~~(b)~~ (c) The purpose of this section is to prevent a
8 non-dentist from influencing or otherwise interfering with the
9 exercise of a dentist's independent professional judgment. In
10 addition to the acts specified in subsection (a) no person,
11 other than a dentist licensed in accordance with this chapter,
12 shall enter into a relationship with a person licensed under
13 this chapter pursuant to which said unlicensed person
14 exercises control over the following:

15 "(1) The selection of a course of treatment for a
16 patient, the procedures or materials to be used as a part of
17 such course of treatment, and the manner in which such course
18 of treatment is carried out by the licensee;

19 "(2) The patient records of a dentist;

20 "(3) Policies and decisions relating to pricing,
21 credit, refunds, warranties and advertising; and

22 "(4) Decisions relating to office personnel and
23 hours of practice.

24 "~~(c)~~ (d) Any licensed dentist or dental hygienist who
25 enters into any of the arrangements or relationships described

1 in subsection (a) or subsection ~~(b)~~ (c) above with an
2 unlicensed person as defined above, may be subject to any of
3 the penalties set forth in Section 34-9-18.

4 "34-9-10.

5 ~~"(a) Every person who desires to practice dentistry~~
6 ~~within the State of Alabama shall file with the~~
7 ~~secretary-treasurer of the board his or her written~~
8 ~~application for a license, and furnish satisfactory proof that~~
9 ~~he or she is 19 years of age, of good moral character, and~~
10 ~~that he or she is a graduate of a dental school or college~~
11 ~~approved by the board. The application shall be upon the form~~
12 ~~prescribed and furnished by the board and verified by the oath~~
13 ~~of the applicant, accompanied by a fee to be determined by the~~
14 ~~board, but the fee shall not be less than twenty-five dollars~~
15 ~~(\$25) nor more than two hundred dollars (\$200), and the~~
16 ~~application shall contain a recent unmounted autographed~~
17 ~~photograph of the applicant. The board may issue a license~~
18 ~~without examination other than clinical to an applicant who~~
19 ~~furnishes satisfactory proof that he or she is a graduate of a~~
20 ~~dental school approved by the board, if the applicant holds a~~
21 ~~license under equal requirements to those of this state and~~
22 ~~has, for five consecutive years immediately prior to the~~
23 ~~filing of his or her application, been engaged in the legal~~
24 ~~and ethical practice of dentistry in a state or the District~~
25 ~~of Columbia, of the United States and furnishes other evidence~~

1 ~~as to his or her qualifications and lawful practice as the~~
2 ~~board may deem necessary. No license shall be issued under~~
3 ~~this section unless the state from which the applicant comes,~~
4 ~~or the District of Columbia, shall accord equal rights to~~
5 ~~licensed dentists of this state. The fee for issuing the~~
6 ~~reciprocal license shall be not less than fifty dollars (\$50)~~
7 ~~nor more than one hundred dollars (\$100), to be determined by~~
8 ~~the board.~~

9 "(a) Every person who desires to practice dentistry
10 within the State of Alabama shall file an application
11 prescribed by the board. Notwithstanding the method of
12 obtaining licensure or any particular requirement set forth
13 herein, every person as a prerequisite to licensure must be at
14 least 19 years of age, of good moral character, a citizen of
15 the United States or, if not a citizen of the United States, a
16 person who is legally present in the United States with
17 appropriate documentation from the federal government, a
18 graduate of a dental school or college accredited by the
19 American Dental Association Commission on Dental Accreditation
20 and approved by the board and must satisfy any other
21 requirement set forth in any rule adopted by the board.

22 "(b) Licensure by examination shall be applicable to
23 the following categories:

24 "(1) Those individuals who have never been licensed
25 or taken an examination and whose application to take an

1 examination administered or approved by the board is received
2 by the board within 18 months of graduation from dental
3 school.

4 "(2) Those individuals who have successfully passed
5 an examination approved but not administered by the board so
6 long as an application for licensure is received by the board
7 within 18 months of the date of notification of passing such
8 examination. All applicants shall pay a fee which shall
9 accompany the application.

10 "(c) Any individual who possesses a current license
11 in any state, who has passed an examination approved by the
12 board and who has, since graduation from dental school,
13 practiced or participated in a clinical residency or practiced
14 dentistry in the Armed Forces or with the public health
15 service shall be eligible for licensure if an application is
16 received by the board within 18 months of the completion of
17 the subject residency or Armed Forces or public health service
18 commitment. All the above applicants shall pay a fee which
19 shall accompany the application.

20 ~~(e)~~(d) Licensure by credentials may be utilized to
21 evaluate the theoretical knowledge and clinical skill of a
22 dentist or dental hygienist when an applicant for licensure by
23 credentials holds a dental or dental hygiene license in
24 another state. The board may promulgate rules and regulations
25 relating to licensure by credentials, ~~including fees,~~ in

1 addition to any requirements by law. An applicant for
2 licensure by credentials must meet all of the following:

3 "(1) The dentist or dental hygienist must have been
4 engaged in the active practice of clinical dentistry or
5 clinical dental hygiene or in full-time dental or dental
6 hygiene education for the ~~past~~ five years or 5000 hours
7 immediately preceding their application.

8 "(2) The applicant must hold a current, valid,
9 unrevoked, and unexpired license in a state having examination
10 standards regarded by the Board of Dental Examiners of Alabama
11 as an equivalent to the Alabama standards.

12 "(3) The board of examiners in the state of current
13 practice must verify or endorse that the applicant's license
14 is in good standing without any restrictions.

15 "(4) The dentist or dental hygienist must not be the
16 subject of a pending ~~or final~~ disciplinary action in any state
17 in which the individual has been licensed which shall be
18 verified by a query to the National Practitioner Data Bank,
19 the Health Integrity Protection Data Bank, the American
20 Association of Dental Examiners Clearing House for
21 Disciplinary Information or any other pertinent bank currently
22 existing or which may exist in the future.

23 "(5) The applicant must provide a written statement
24 agreeing to be interviewed at the request of the board.

1 "(6) The individual must successfully pass a written
2 jurisprudence examination.

3 "(7) There must be certification from the United
4 States Drug Enforcement Administration and from the state
5 board of any state in which the applicant is or has been
6 licensed that the DEA ~~permit has not been revoked, suspended,~~
7 ~~modified, restricted, or limited in any way or that any state~~
8 ~~controlled substances permit has not been revoked, suspended,~~
9 ~~modified, restricted, or limited in any way~~ registration is
10 not the subject of any pending disciplinary action or
11 enforcement proceeding of any kind.

12 "(8) The applicant must submit affidavits from two
13 licensed dentists or two licensed dental hygienists practicing
14 in the same geographical area where the applicant currently is
15 practicing or teaching attesting to the applicant's moral
16 character, standing, and ability.

17 "(9) The applicant must provide the board with an
18 official transcript with school seal from the school of
19 dentistry or school of dental hygiene which issued the
20 applicant's professional degree or execute a request and
21 authorization allowing the board to obtain the transcript.

22 "(10) The applicant must be a graduate of a dental
23 or dental hygiene school, college, or educational program
24 approved by the board.

1 "(11) The applicant must not be the subject of any
2 pending or final action from any hospital revoking,
3 suspending, limiting, modifying, or interfering with any
4 clinical or staff privileges.

5 "(12) The applicant must not have been convicted of
6 a felony or misdemeanor involving moral turpitude or of any
7 law dealing with the administering or dispensing of legend
8 drugs, including controlled substances.

9 "(13) The board may consider or require other
10 criteria including, but not limited to, any of the following:

11 "a. Questioning under oath.

12 "b. Results of peer review reports from constituent
13 dental societies or federal dental services.

14 "c. Substance abuse testing or treatment.

15 "d. Background checks for criminal or fraudulent
16 activities.

17 "e. Participation in continuing education.

18 "f. A current certificate in cardiopulmonary
19 resuscitation.

20 "g. Recent case reports or oral defense of diagnosis
21 and treatment plans.

22 "h. Proof of no physical or psychological impairment
23 that would adversely affect the ability to practice dentistry
24 or dental hygiene with reasonable skill and safety.

1 "i. An agreement to initiate practice within the
2 State of Alabama within a period of one year.

3 "j. Proof of professional liability coverage and
4 that coverage has not been refused, declined, cancelled,
5 nonrenewed, or modified.

6 "k. Whether the applicant has been subject to any
7 final disciplinary action in any state in which the individual
8 has been licensed which shall be verified by a query in the
9 National Practitioner Data Bank, the Health Integrity
10 Protection Databank, the American Association of Dental
11 Examiners Clearing House for Disciplinary Information, any
12 state where the applicant has been licensed, or any other
13 pertinent bank currently existing or which may exist in the
14 future.

15 "l. Whether the applicant's DEA registration or any
16 state controlled substances permit has ever been revoked,
17 suspended, modified, restricted, or limited in any way.
18 Provided, however, that any discipline that results only from
19 a failure to timely renew a registration or permit shall not
20 prevent an applicant from being eligible for this method of
21 licensure.

22 "(14) If all criteria and requirements are satisfied
23 and the board determines, after notice and hearing, that the
24 individual committed fraud or in any way falsified any

1 information in the application process, the license may be
2 revoked by the board.

3 "~~(f)~~ (15) In addition to the requirements for
4 applicants seeking licensure by credentials, an applicant
5 desiring to practice a specialty only, must meet the following
6 requirements:

7 "~~(1)~~ a. The specialty must be one in a branch of
8 dentistry approved by the American Dental Association.

9 "~~(2)~~ b. The applicant must meet the existing
10 educational requirements and standards set forth by the
11 American Dental Association for that approved specialty.

12 "~~(3)~~ c. An applicant who chooses to announce or
13 practice a specialty must limit his or her practice
14 exclusively to the announced special area or areas of dental
15 practice.

16 "~~(4)~~ d. If an applicant who is initially licensed by
17 credentials for a specialty practice decides to renounce his
18 or her specialty and practice general dentistry, and the
19 license originally issued did not require a general dental
20 license but rather a specialty license, or the applicant
21 originally passed only a specialty examination, the applicant
22 may not practice general dentistry until he or she
23 successfully passes the board's regular general dentistry
24 examination. However, if the applicant has passed a general
25 dentistry examination or has a general dentistry license, was

1 practicing a specialty, and decides not to continue that
2 specialty and practice only general dentistry, the applicant
3 is eligible for licensure by credentials as a general dentist.

4 "~~(b)~~(e) Notwithstanding the provisions of subsection
5 (a), the board shall issue a special purpose license to
6 practice dentistry across state lines to an applicant who has
7 met the following requirements:

8 "(1) The applicant holds a full and unrestricted
9 license to practice dentistry in any state of the United
10 States or in territories, other than the State of Alabama, in
11 which the individual is licensed.

12 "(2) The applicant has not had any disciplinary
13 action or other action taken against him or her by any state
14 or licensing jurisdiction. If there has been previous
15 disciplinary or other action taken against the applicant, the
16 board may issue a certificate of qualification if it finds
17 that the previous disciplinary or other action indicates that
18 the dentist is not a potential threat to the public.

19 "(3) The applicant submits an application for a
20 certificate of qualification for a special purpose license to
21 practice dentistry across state lines on a form provided by
22 the board, and remits an application fee in an amount
23 established by the board and shall pay a fee.

24 "~~(c)~~(f) A special purpose license issued by the
25 board to practice dentistry across state lines limits the

1 licensee solely to the practice of dentistry across state
2 lines. The special purpose license shall be valid for a period
3 of three years, shall expire on a renewal date established by
4 the board in the third calendar year after its issuance, and
5 may be renewed upon receipt of a renewal fee as established by
6 the board. Failure to renew a license according to the renewal
7 schedule established by the board shall result in the
8 automatic revocation of the special purpose license to
9 practice dentistry across state lines. An applicant may
10 reapply following automatic revocation for failure to renew.
11 The applicant shall meet the qualifications of subsection ~~(b)~~
12 (e) in order to be eligible for renewal of the license.

13 "~~(d)~~(g) Notwithstanding the provisions of this
14 section, the board shall only issue a special purpose license
15 to practice dentistry across state lines to an applicant whose
16 principal practice location and license to practice are
17 located in a state or territory of the United States whose
18 laws permit or allow for the issuance of a special purpose
19 license to practice dentistry across state lines or similar
20 license to a dentist whose principal practice location and
21 license are located in another state. It is the stated intent
22 of this section that dentists who hold a full and current
23 license in the State of Alabama be afforded the opportunity to
24 obtain, on a reciprocal basis, a license to practice dentistry
25 across state lines in any other state or territory of the

1 United States as a precondition to the issuance of a special
2 purpose license as authorized by this section to a dentist
3 licensed in the other state or territory. The board shall
4 determine which states or territories have reciprocal
5 licensure requirements meeting the qualifications of this
6 section.

7 "(h) Any individual who does not qualify for
8 licensure pursuant to any of the above subsections but who has
9 passed an examination approved by the board and possesses a
10 current license in another state is eligible to apply for
11 licensure upon payment of a fee. The board shall have
12 discretion whether to require an examination for any such
13 individual, including the time, place, type, and content of
14 any such examination.

15 "(i) A current license shall mean one in good
16 standing authorizing the individual to practice in the state
17 of issuance.

18 "§34-9-11.

19 "When application and accompanying proof as are
20 required herein are found satisfactory, the board shall notify
21 the applicant to appear ~~before it~~ for examination at a time
22 and place to be fixed by the board, and each applicant shall
23 be examined and graded by number in lieu of name. All
24 examinations provided for in this chapter shall be ~~conducted~~
25 approved by the board and shall be of such type and character

1 as to test the qualifications of the applicant to practice
 2 dentistry. ~~In conducting examinations, each member of the~~
 3 ~~board shall submit his questions to the other board members,~~
 4 ~~and the entire board shall decide whether or not each proposed~~
 5 ~~question is fair and practical.~~ It is provided, however, that
 6 the board may recognize any written parts of an examination
 7 given by the Joint Commission on National Board of Dental
 8 Examiners Examinations in lieu of such examinations or subject
 9 to such examinations as the board may ~~require~~ approve. Those
 10 found qualified by the board shall be granted a license and a
 11 license certificate which shall bear a serial number, the full
 12 name of the licensee, the date of issuance and the seal of the
 13 board, and shall be signed by each member of the board.

14 "§34-9-15.

15 "(a) No person shall practice dentistry in the State
 16 of Alabama unless licensed by the board and registered
 17 annually as required by this chapter. The secretary-treasurer
 18 of the board shall mail to each licensee an initial
 19 registration form which shall contain space for the insertion
 20 of name, address, date, and number of license certificate, and
 21 other information as the board shall deem necessary. The
 22 licensee shall sign and verify the accuracy of the
 23 registration before a notary public after which he or she
 24 shall forward the registration to the secretary-treasurer of
 25 the board together with a fee ~~established by the board~~

1 ~~pursuant to this chapter.~~ Each subsequent registration shall
2 be made upon the form as above prescribed except that it need
3 not be verified. On or before October 1 of each year, every
4 dentist licensed to practice dentistry in the state shall
5 transmit to the secretary-treasurer of the board the completed
6 form prescribed by the board, together with a fee established
7 by the board pursuant to this chapter, and receive therefor
8 the current annual registration certificate authorizing him or
9 her to continue the practice of dentistry in the state for a
10 period of one year. Any license and license certificate
11 previously granted under the authority of this chapter or any
12 prior dental practice act shall automatically be suspended if
13 the holder thereof fails to secure the annual registration
14 certificate before January 1, each year. Any dentist whose
15 license is automatically suspended by reason of failure,
16 neglect, or refusal to secure the annual registration
17 certificate shall be reinstated by the board upon payment of
18 the penalty fee of ~~two hundred fifty dollars (\$250)~~ plus all
19 accrued annual registration fees up to a maximum of five
20 years, accompanied with the prescribed form for annual
21 registration of the license. Upon failure of any licensee to
22 file application for the annual registration certificate and
23 pay the annual registration fee on or before November 30, each
24 year, the board shall notify the licensee by mail addressed to
25 the last address of record that the application and fee have

1 not been received and that, unless the application and fee are
2 received on or before the first day of January, the license
3 and license certificate shall be automatically suspended. The
4 board shall notify the licensee by mail addressed to the last
5 address of record of the effective date of the automatic
6 suspension and the provisions for registration of the license.
7 The board shall waive the annual payment of fees herein
8 provided for and issue a current annual registration
9 certificate to any licensee who, because of age or physical
10 disability, has retired from the practice of dentistry or who
11 is suffering a malady of a lingering or permanent nature. The
12 board by rule shall waive annual registration and the payment
13 of fees while any licensee is on temporary active duty with
14 any of the armed forces of the United States. The waiver of
15 fees herein provided shall be effective so long as the
16 retirement because of age or physical disability or temporary
17 active duty continues.

18 "(b) The board shall adopt and promulgate rules and
19 regulations for the adoption of a program of continuing
20 education for its licensees by October 1, 1991. After that
21 date, the successful completion of continuing education
22 program requirements shall be a requisite for renewal of
23 licenses issued pursuant to this chapter."

24 Section 4. Section 34-9-15.1 is hereby added to the
25 Code of Alabama 1975, to read as follows:

1 §34-9-15.1.

2 (a) Upon the request of a patient or authorized
3 agent of a patient, a dentist is required to promptly release
4 to the patient or his or her authorized agent legible and
5 accurate copies of all records of the patient regardless of
6 how they are generated or maintained when requested to do so
7 by the patient or his or her authorized agent. The reasonable
8 costs of reproducing copies shall not be more than the amounts
9 authorized by statute and in the absence of any statutory
10 authority no more than the actual cost of the reproduction.

11 (b) The release of records under this section shall
12 not be made contingent upon the payment of any fee or charge
13 owed by the patient.

14 (c) The provisions of the section shall survive the
15 closing of a dental office or practice for any reason,
16 including, but not limited to, any disciplinary action,
17 retirement, disability, or death.

18 Section 5. Sections 34-9-16, 34-9-17, 34-9-18,
19 34-9-19, 34-9-26, 34-9-28, 34-9-40, 34-9-41, 34-9-43, 34-9-60,
20 34-9-61, 34-9-63, 34-9-64, 34-9-81, and 34-9-88, Code of
21 Alabama 1975, are amended to read as follows:

22 "§34-9-16.

23 "The board shall establish and collect reasonable
24 fees provided for in this chapter ~~as follows.~~ within the

1 ranges set forth below and without having to engage in the
 2 rulemaking process.

3	"Examination fee for dental applicants, to be	\$100 to \$300
4	fixed by the board.....	
5	Examination fee for dental applicants under recip	\$50 to \$100
6	rocal agreements.....	
7	Examination fee for dental hygiene applicants.....	\$100 to \$200
8	Dental hygienist examination material fee.....	\$50 to \$100
9	Examination fee for dental hygienists.....	\$20 to \$100
10	Training permit fee for dental hygienists.....	\$150 to \$300
11	Education fee for student hygienists in Alabama	\$75 to \$200
12	dental hygiene program.....	
13	Dental examination material fee.....	\$100 to \$200
14	License certificate fee.....	\$25
15	Duplicate license certificate fee.....	\$25
16	Annual registration certificate fee for den-	\$50 to \$150
17	tists.....	
18	Annual registration certificate fee for dental hy-	\$25 to \$75
19	gienists.....	

1 ~~Controlled substance certificate fee for den-~~ ~~\$50 to \$200~~
 2 ~~tists...~~
 3 ~~Teaching permit.....~~ ~~up to \$150~~

4	<u>"Description</u>	<u>Not Less Than</u>	<u>Not More Than</u>
5	<u>Dental Examination Appli-</u>		
6	<u>cation Fee</u>	<u>\$200.00</u>	<u>\$750.00</u>
7	<u>Dental Examination Fee</u>	<u>\$300.00</u>	<u>\$2,500.00</u>
8	<u>Dental Examination Materi-</u>		
9	<u>als Fee</u>	<u>\$200.00</u>	<u>\$500.00</u>
10	<u>Dental Licensure by Cre-</u>		
11	<u>dentials Fee</u>	<u>\$0.00</u>	<u>\$4,000.00</u>
12	<u>Special Purpose Licensure</u>		
13	<u>Fee</u>	<u>\$200.00</u>	<u>\$750.00</u>
14	<u>Dental Annual Registration</u>		
15	<u>Fee</u>	<u>\$130.00</u>	<u>\$500.00</u>
16	<u>Dental License Reinstatement</u>		
17	<u>Penalty</u>	<u>\$250.00</u>	<u>\$500.00</u>
18	<u>Alabama Dental Hygiene</u>		
19	<u>Training Permit Fee</u>	<u>\$0.00</u>	<u>\$450.00</u>

1	<u>Alabama Dental Hygiene</u>		
2	<u>Training Education Fee</u>	<u>\$175.00</u>	<u>\$600.00</u>
3	<u>Alabama Dental Hygiene</u>		
4	<u>Program Instructor Certif-</u>		
5	<u>ication Course Fee</u>	<u>\$75.00</u>	<u>\$200.00</u>
6	<u>Alabama Dental Hygiene</u>		
7	<u>Program Instructional Ma-</u>		
8	<u>terials Fee</u>	<u>\$500</u>	<u>\$950</u>
9	<u>Dental Hygiene Examination</u>		
10	<u>Fee</u>	<u>\$100.00</u>	<u>\$600.00</u>
11	<u>Dental Hygiene Examination</u>		
12	<u>Materials Fee</u>	<u>\$100.00</u>	<u>\$400.00</u>
13	<u>Dental Hygiene Licensure</u>		
14	<u>by Credentials Fee</u>	<u>\$0.00</u>	<u>\$2,000.00</u>
15	<u>Dental Hygiene Annual Reg-</u>		
16	<u>istration Fee</u>	<u>\$55.00</u>	<u>\$75.00</u>
17	<u>Dental Hygiene License Re-</u>		
18	<u>instatement Penalty</u>	<u>\$100.00</u>	<u>\$200.00</u>
19	<u>License Certificate Fee</u>	<u>\$25.00</u>	<u>\$500.00</u>
20	<u>Duplicate License Fee</u>	<u>\$25.00</u>	<u>\$150.00</u>
21	<u>Dental Faculty Teaching</u>	<u>\$150.00</u>	<u>\$350.00</u>

1	<u>Permit Fee</u>		
2	<u>Alabama Controlled Sub-</u>		
3	<u>stance Permit Fee</u>	<u>\$125.00</u>	<u>\$400.00</u>
4	<u>Alabama Controlled Sub-</u>		
5	<u>stance Permit Renewal Fee</u>	<u>\$100.00</u>	<u>\$400.00</u>
6	<u>General Anesthesia Permit</u>		
7	<u>Fee</u>	<u>\$900.00</u>	<u>\$1,500.00</u>
8	<u>General Anesthesia Permit</u>		
9	<u>Renewal Fee</u>	<u>\$200.00</u>	<u>\$750.00</u>
10	<u>Parenteral Sedation Permit</u>		
11	<u>Fee</u>	<u>\$900.00</u>	<u>\$1,500.00</u>
12	<u>Parenteral Sedation Permit</u>		
13	<u>Renewal Fee</u>	<u>\$200.00</u>	<u>\$750.00</u>
14	<u>Oral Conscious Sedation</u>		
15	<u>Permit Fee</u>	<u>\$100.00</u>	<u>\$250.00</u>
16	<u>Oral Conscious Sedation</u>		
17	<u>Permit Renewal Fee</u>	<u>\$50.00</u>	<u>\$250.00</u>

18 "\$34-9-17.

19 "(a) Any person or persons may practice or offer to
 20 practice dentistry in connection with any dental office or

1 offices by or under the use of a name other than their own
2 provided their name or names as they appear on their license
3 certificate granted to him or them as a dentist pursuant to
4 this chapter appear in a reasonably dignified manner either
5 following or beneath any name selected and further provided
6 that such person or persons are personally present in their
7 office or offices operating as a dentist or personally
8 overseeing such operations as they are performed in their
9 office or each of their offices. When an associate in practice
10 is on temporary active duty with the armed forces, his name
11 may continue to appear in connection with the practice of
12 dentistry at any office or offices. Nothing herein shall allow
13 or permit any person or persons to select a name that suggests
14 or implies a nonprofit or charitable activity. The violation
15 of any of the provisions of this subsection by any dentist may
16 subject such dentist to any of the penalties outlined in
17 Section 34-9-18.

18 "(b) It shall be unlawful for a licensee to permit
19 his or her name to appear in any manner on, within or in
20 connection with any office which he has sold to another
21 licensee and from which he has severed his active practice or
22 in the event of the death of a licensee, provided the name of
23 the dentist who sells his office to a licensed dentist or the
24 name of the deceased dentist may remain in the office for a
25 period not to exceed ~~six~~ 12 months and it shall also be

1 unlawful for the buyer to permit the former owner's name or
 2 the deceased's license to appear in any manner on, within or
 3 in connection with said office, except as herein provided. The
 4 violation of any of the provisions of this subsection by any
 5 dentist may subject such dentist to the penalties outlined in
 6 subsection (b) of Section 34-9-18.

7 "(c) Nothing in this section shall be so construed
 8 as to prevent two or more licensed dentists from associating
 9 together for the practice of dentistry.

10 "§34-9-18.

11 "(a) The board may invoke disciplinary action as
 12 outlined in subsection (b) hereof whenever it shall be
 13 established to the satisfaction of the board, after hearing as
 14 hereinafter provided, that any dentist or dental hygienist has
 15 been guilty of the following:

16 "(1) Fraud, deceit, or misrepresentation, whether
 17 knowingly or unknowingly, in obtaining any license, license
 18 certificate, annual registration certificate, money, or other
 19 thing of value.

20 "(2) Gross immorality.

21 "(3) Is a menace to the public health or to patients
 22 or others by reason of a disease.

23 "(4) Is an habitual user of intoxicants or drugs
 24 rendering him unfit for the practice of dentistry or dental
 25 hygiene.

1 "(5) Has been convicted for violation of federal or
2 state narcotics or barbiturate laws.

3 "(6) Is guilty of gross negligence, as defined by
4 the board, in the practice of dentistry or dental hygiene.

5 "(7) Is guilty of employing, allowing, or permitting
6 any unlicensed person or persons to perform any work in his or
7 her office which, under this chapter, can only be legally done
8 by a person or persons holding a license to practice dentistry
9 or dental hygiene.

10 "(8) Willfully or negligently violates the rules of
11 the State Department of Health or of the board regarding
12 sanitation.

13 "(9) Is guilty of division of fees, or agreeing to
14 split or divide the fee received for dental service with any
15 person for bringing or referring a patient without the
16 knowledge of the patient or his legal representative, except
17 the division of fees between dentists practicing in a
18 partnership and sharing professional fees, or in case of one
19 licensed dentist employing another.

20 "(10) Is guilty of professional connection or
21 association with or lending his name to anyone who is engaged
22 in the illegal practice of dentistry.

23 "(11) Conviction in any court of competent
24 jurisdiction of a felony or a misdemeanor involving moral
25 turpitude.

1 "(12) a. A dental hygienist using or attempting to
2 use in any manner whatsoever any prophylactic list, call list,
3 records, reprints, or copies of same, or information gathered
4 therefrom, of the names of patients whom the dental hygienist
5 served in the office of a prior employer, unless the names
6 appear upon the bona fide call or prophylactic list of her
7 present employer and were caused to appear through the
8 legitimate practice of dentistry as provided for in this
9 chapter.

10 "b. A licensed dentist who aids or abets or
11 encourages a dental hygienist employed by him or her to make
12 use of a so-called prophylactic list or the calling by
13 telephone or by the use of letters transmitted through the
14 mails to solicit patronage from patients formerly served in
15 the office of any dentist employing the hygienist or nurse.

16 "(13) Pertaining to licensed dentists only, the
17 prescribing, administering or dispensing of any controlled
18 substances enumerated in Schedules I through V contained in
19 the Alabama Uniform Controlled Substances Act, Chapter 2 of
20 Title 20, or any amendment or successor thereto, for any
21 person not under his or her treatment in the regular practice
22 of his or her profession, or veteran's administration.

23 "(14) Irregularities in billing an insurance company
24 or other third party payer for services rendered to a patient.

1 "For the purposes of this section irregularities in
2 billing shall include: Reporting charges for the purpose of
3 obtaining a total payment in excess of that usually received
4 by the dentist for the services rendered; falsely reporting
5 treatment dates for the purpose of obtaining payment; falsely
6 reporting charges for services not rendered; falsely reporting
7 services rendered for the purpose of obtaining payment; or
8 failing to advise any third party payer that the copayment
9 provisions of a contract have been abrogated by accepting the
10 payment received from the third party payer as full payment.

11 "(15) Violating any rule or regulation adopted by
12 the Board of Dental Examiners.

13 "(16) Has had his or her license to practice
14 dentistry or dental hygiene from another state suspended or
15 revoked based upon acts similar to those described in this
16 section. A certified copy of the record of suspension or
17 revocation of the state making the suspension or revocation
18 shall be conclusive evidence thereof.

19 "(17) Violating any provision of this chapter.

20 "The board shall have the authority to adopt rules
21 imposing a non-disciplinary administrative penalty for
22 designated violations of the Alabama Dental Practice Act.

23 "(b) When the board finds any dentist or dental
24 hygienist guilty of any of the grounds set forth in subsection

1 (a), it may enter an order imposing one or more of the
2 following penalties:

3 "(1) Refuse to issue the dentist or dental hygienist
4 license or license certificate provided for in this chapter.

5 "(2) Revoke the license of any dentist or dental
6 hygienist.

7 "(3) Suspend the license of any dentist or dental
8 hygienist.

9 "(4) Enter a censure.

10 "(5) Issue an order fixing a period and terms of
11 probation best adapted to protect the public health and safety
12 and to rehabilitate the dentist or dental hygienist.

13 "(6) Imposition of an administrative fine not to
14 exceed one thousand two hundred fifty dollars ~~(\$1,000)~~
15 (\$1,250) for each count or separate offense.

16 "(7) Imposition of restrictions on the scope of
17 practice.

18 "(8) Imposition of peer review or professional
19 education requirements.

20 "(9) Assessment of the costs of the disciplinary
21 proceedings.

22 "(c) Failure to comply with any final order of the
23 board, including, but not limited to, an order of censure or
24 probation, is cause for suspension or revocation of a license.

1 "(d) No disciplinary action as outlined in
2 subsection (b) or (c) hereof shall be invoked or entered
3 except after hearing by the board as provided in this chapter,
4 and such order is subject to judicial review as provided by
5 this chapter.

6 "No order of suspension or revocation provided in
7 this section shall be made or entered except after hearing by
8 the board as provided in this chapter, and the order shall be
9 subject to judicial review as provided by this chapter.

10 "(e) The board may temporarily suspend a special
11 purpose license to practice dentistry across state lines
12 without a hearing on either of the following grounds:

13 "(1) The failure of the licensee to appear or
14 produce records or materials as requested by the board.

15 "(2) The initiation of a disciplinary action against
16 the licensee by any state or territorial licensing
17 jurisdiction in which the licensee holds a license to practice
18 dentistry.

19 "Notwithstanding any other provision of law,
20 including the Alabama Administrative Procedure Act, the
21 temporary suspension provided herein shall remain in effect
22 until either the licensee has complied with the request of the
23 board or the disciplinary action pending against the licensee
24 has been terminated in favor of the licensee and the temporary
25 suspension has been terminated by a written order of the

1 board. A special purpose license to practice dentistry across
2 state lines is subject to each of the grounds for disciplinary
3 action provided in this section in accordance with the
4 procedures of Section 34-9-24 and the Alabama Administrative
5 Procedure Act.

6 "(f) Members of the Board of Dental Examiners, any
7 agent, employee, consultant, or attorney for the board, the
8 members of any committee of dentists or dental hygienists
9 impaneled by the board, shall be immune from suits for any
10 conduct in the course of their official duties with respect to
11 investigations or hearings; provided, that the persons act
12 without malice and in good faith that such investigations or
13 hearings are warranted by the facts, known to them after
14 diligent effort to obtain the facts of the matter relative to
15 the investigations or hearings.

16 "(g) Nothing in this chapter shall be interpreted to
17 limit or restrict the authority of the board to discipline any
18 dentist licensed to practice in this state who violates this
19 chapter while engaging in the practice of dentistry within
20 this or any other state.

21 "§34-9-19.

22 "(a) For the purpose of this section, the following
23 terms shall have the respective meanings:

1 "(1) ADVERTISEMENT. An advertisement is information
2 communicated in a manner designed to attract public attention
3 to the practice of a dentist as heretofore defined.

4 "(2) DENTIST. Any person licensed to practice
5 dentistry in this state pursuant to this chapter or any entity
6 authorized by law which is formed for the purpose of
7 practicing dentistry.

8 "~~(3) FALSE, FRAUDULENT, MISLEADING, or DECEPTIVE. A~~
9 ~~false, fraudulent, misleading, or deceptive statement or claim~~
10 is one which:

11 "a. Contains a material misrepresentation of fact or
12 law.

13 "~~b. Is likely to mislead or deceive because in~~
14 ~~context it makes only a partial disclosure of relevant facts~~
15 ~~Omits a material fact rendering to the statement or claim when~~
16 ~~considered as a whole to be false.~~

17 "~~c. Is intended or is likely to create false or~~
18 ~~unjustified expectations of favorable results.~~

19 "~~d. Implies unusual or superior dental ability.~~

20 "~~e. Contains other representations or implications~~
21 ~~that in reasonable probability will cause an ordinary and~~
22 ~~prudent person to misunderstand or be deceived.~~

23 "(b) A dentist shall have ultimate responsibility
24 for all advertisements which are approved by him or her or his

1 or her agents or associates and the dentist shall be
2 responsible for the following:

3 "(1) Broadcast advertisements shall be recorded,
4 approved by the dentist, and a recording of the actual
5 transmission shall be retained by the dentist for one year
6 following the final appearance or use of the advertisement.
7 The dentist is responsible for making copies of the
8 advertisement available to the board within 10 days following
9 a request by the board.

10 "(2) Written or printed advertisements shall be
11 approved by the dentist and a copy of the publication in which
12 the advertisement is displayed shall be retained by the
13 dentist for one year following the final appearance or use of
14 the advertisement. The dentist is responsible for making
15 copies of the advertisement available to the board within 10
16 days following a request by the board.

17 "(3) Other forms of advertisement shall be approved
18 by the dentist and the contents and specifications, where
19 applicable, shall be retained by the dentist for one year
20 following the final appearance or use of the advertisement and
21 the dentist is responsible for making copies of the
22 advertisement available to the board within 10 days following
23 a request by the board.

1 "(c) A dentist may not hold himself or herself out
2 as a specialist or advertise specialty status unless the
3 specialty is approved by the American Dental Association.

4 "(d) Dentists who are not specialists in specialties
5 approved by the American Dental Association may nevertheless
6 advertise that their practice is limited to a specific area of
7 dentistry only if the dentist has obtained membership in or
8 otherwise has been credentialized by an accrediting
9 organization which is recognized by the board as a bona fide
10 organization for such an area of practice.

11 "(e) Notwithstanding any provision of this section
12 to the contrary, a dentist licensed pursuant to this chapter
13 may not hold himself or herself out as a specialist or
14 advertise membership in a specialty recognized by an
15 accrediting organization, unless the dentist has continuously
16 held himself or herself out as a specialist since December 31,
17 1964, in a specialty recognized by the American Dental
18 Association or has completed a specialty education program
19 approved by the American Dental Association and the Commission
20 on Dental Accreditation and meets either of the following
21 qualifications:

22 "(1) Is eligible for examination by a national
23 specialty board recognized by the American Dental Association.

24 "(2) Is a diplomate of a national specialty board
25 recognized by the American Dental Association.

1 "(f) A dentist licensed under this chapter may not
 2 represent to the public without appropriate disclosure that
 3 his or her practice is limited to a specific area of dentistry
 4 other than a specialty area of dentistry authorized under
 5 subsection (e) unless the dentist has attained membership in
 6 or has otherwise been credentialed by an accrediting
 7 organization which is recognized by the board as a bona fide
 8 organization for such an area of dental practice. In order to
 9 be recognized by the board as a bona fide accrediting
 10 organization for a specific area of dental practice other than
 11 a specialty area of dentistry authorized under subsection (c),
 12 the organization must condition membership or credentialing of
 13 its members upon all of the following:

14 "(1) Successful completion of a formal, full-time
 15 advanced education program that is affiliated with or
 16 sponsored by a university-based dental school that is beyond
 17 the dental degree, is at the graduate or postgraduate level,
 18 and is of at least 12 months in duration.

19 "(2) Prior didactic training and clinical experience
 20 in the specific area of dentistry which is greater than that
 21 of other dentists.

22 "(3) Successful completion of oral and written
 23 examinations based on psychometric principles.

24 "(g) Notwithstanding the requirements of subsections
 25 (e) and (f), a dentist who lacks membership in or

1 certification, diplomate status, or other similar credentials
 2 from an accrediting organization approved as bona fide by
 3 either the American Dental Association or the board may
 4 announce a practice emphasis in any other area of dental
 5 practice if the dentist incorporates in capital letters or
 6 some other manner clearly distinguishable from the rest of the
 7 announcement, solicitation, or advertisement the following
 8 statement: " _____ (NAME OF ANNOUNCED AREA OF DENTAL
 9 PRACTICE) IS NOT RECOGNIZED AS A SPECIALTY AREA BY THE
 10 AMERICAN DENTAL ASSOCIATION OR THE BOARD OF DENTAL EXAMINERS
 11 OF ALABAMA." If such an area of dental practice is officially
 12 recognized by an organization which the dentist desires to
 13 acknowledge or otherwise reference in the dentist's
 14 announcement, solicitation, or advertisement, the same
 15 announcement, solicitation, or advertisement shall also state
 16 prominently: " _____ (NAME OF REFERENCED
 17 ORGANIZATION) IS NOT RECOGNIZED AS A BONA FIDE SPECIALTY
 18 ACCREDITING ORGANIZATION BY THE AMERICAN DENTAL ASSOCIATION OR
 19 THE BOARD OF DENTAL EXAMINERS OF ALABAMA."

20 "(h) The purpose of this section is to prevent a
 21 dentist from advertising without appropriate disclosure
 22 membership in an organization which may be perceived by the
 23 public as recognizing or accrediting specialization or other
 24 unique competencies in an area of dentistry that is not
 25 recognized or accredited by the American Dental Association or

1 the board in accordance with this section. The purpose of this
2 section is also to prohibit a dentist from advertising a
3 specialty or other area of dental practice without appropriate
4 disclosure unless the special competencies held by the dentist
5 satisfy the requirements of subsections (d) and (f). The
6 Legislature finds that dental consumers can reasonably rely on
7 these requirements as satisfactory evidence of a dentist's
8 attainment of meaningful competencies in the specialty or
9 other bona fide area of dental practice advertised. The
10 Legislature also finds that this process for the recognition
11 of dental specialties and other bona fide areas of dental
12 practice is the least restrictive means available to ensure
13 that consumers are not misled about a dentist's unique
14 credentials.

15 "(i) A dentist who lacks membership in or
16 certification, diplomate status, or similar credentials from
17 an accrediting organization approved as bona fide by either
18 the American Dental Association or the board may announce a
19 practice emphasis in any other area of dental practice if the
20 dentist incorporates the disclaimer set forth in subsection
21 (g).

22 "(j) The board shall promulgate rules and
23 regulations delineating examples of advertising which would be
24 considered false, fraudulent, misleading, or deceptive.

25 "§34-9-26.

1 "No person shall practice as a dental hygienist in
2 this state until such person has passed an examination given
3 by the board under rules and regulations as the board may
4 promulgate and the payment of a fee. ~~The fee for examination~~
5 ~~shall be not less than one hundred dollars (\$100) nor more~~
6 ~~than two hundred dollars (\$200), and the license certificate~~
7 ~~fee shall be twenty five dollars (\$25).~~ The board shall issue
8 licenses and license certificates as dental hygienists to
9 those persons who have passed the examination and have been
10 found qualified by the board. The license certificate and
11 annual registration certificate shall be displayed in the
12 office in which the dental hygienist is employed. No person
13 shall be entitled to a license and license certificate unless
14 the person is 19 years of age and of good moral character.
15 Each applicant for examination and license as a dental
16 hygienist shall be a graduate of a school of dental hygiene
17 which has been approved by the board, or in lieu thereof,
18 shall have served ~~at least one year~~ as a dental assistant for
19 a period of time established by board rule and shall have
20 served at least one year as a dental hygienist trainee under a
21 training permit issued by the board to a qualified dentist
22 practicing in this state in accordance with the dental
23 hygienist training program established by the Board of Dental
24 Examiners of Alabama. Any person practicing in violation of
25 this section shall be guilty of a misdemeanor, and the board

1 may impose the penalties outlined in Section 34-9-18 for such
2 violation.

3 "§34-9-28.

4 "It shall be the duty of all licensed dental
5 hygienists to notify the secretary-treasurer of the board of
6 any change of address or employer and have issued to them an
7 annual registration certificate by the board. Any dental
8 hygienist whose license shall be automatically suspended by
9 reason of failure, neglect or refusal to secure the annual
10 registration certificate may be reinstated by the board upon
11 payment of the penalty fee of ~~one hundred dollars (\$100)~~ plus
12 the current year's registration fee. The form and method
13 provided for in Section 34-9-15 shall apply to the annual
14 registration of dental hygienists.

15 "§34-9-40.

16 "(a) In order to accomplish the purposes and to
17 provide for the enforcement of this chapter, there is hereby
18 created the Board of Dental Examiners of Alabama. The board is
19 hereby vested with the authority to carry out the purposes and
20 enforce the provisions of this chapter. On June 24, 1959, the
21 members of the present board now in existence shall hold
22 office for the remainder of their respective terms for which
23 they have been elected and thereafter until their successors
24 are elected and qualified and shall constitute the board under
25 this chapter. The board shall consist of ~~five~~ six dentists and

1 one dental hygienist who shall have been be selected in the
2 method set forth herein all of whom having been actively
3 engaged in the practice of dentistry in the State of Alabama
4 for at least five years next preceding the date of their
5 election and one dental hygienist elected at-large and as
6 provided in subsection (b). Each member of the board shall be
7 a citizen of this state. No member of the board shall be a
8 member of the faculty of any dental school, dental college,
9 dental hygiene school, or dental hygiene college or receive
10 any financial benefits for teaching in any dental school,
11 dental college, dental hygiene school, or dental hygiene
12 college or have a financial interest in a commercial dental
13 laboratory or a dental supply business. ~~All elections shall be~~
14 ~~conducted by the board.~~ Beginning in October 2009, and every
15 five years thereafter, one member, who is qualified as
16 provided herein, shall be selected by the Alabama Dental
17 Society no later than July 1, 2009, and every five years
18 thereafter. Any As for all elections of members, any group of
19 10 or more licensed dentists, residing and practicing
20 dentistry in the state, may nominate a candidate for the
21 position of board member by submitting a petition bearing
22 their signatures to the secretary of the board to be
23 postmarked not later than the first day of July in the year of
24 the election. The board shall cause the election ballots to be
25 mailed not later than September 1 in the year of the election

1 to all the licensed dentists residing and practicing in the
2 state and currently registered as prescribed by law, along
3 with the annual registration form for the forthcoming fiscal
4 year. Both the annual registration form and ballot fee must
5 accompany the separately sealed ballot that shall be
6 postmarked no later than October 1 and returned to the
7 secretary of the board ~~on or~~ no later than the first board
8 workday following October 1 each year, ballots being nullified
9 unless accompanied by completed annual registration form and
10 annual registration fee. Three members of the board shall be
11 present at the canvassing of the ballots. Any candidate
12 receiving a majority of the votes shall be declared elected to
13 the board and will take the oath of office on or before
14 October 15 in the year of his or her election. In the event no
15 candidate receives a majority of the votes cast, the board
16 shall conduct a run-off election between the two candidates
17 receiving the largest number of votes. The board shall cause
18 the ballots pertaining to the run-off election to be mailed on
19 or before October 15 of the election year to all the licensed
20 dentists residing and practicing in the state and currently
21 registered as prescribed by law, and the ballots pertaining to
22 the run-off election shall be postmarked no later than the
23 first day of November in the year of the run-off election and
24 received by the secretary of the board ~~on or before the first~~
25 ~~day of November in the year of the run-off election~~ no later

1 than the first board workday following the first day of
2 November. All ballots received after this date shall be
3 nullified. In the event of a run-off election, the candidate
4 receiving the largest number of votes in the run-off election
5 shall be declared elected to the board and shall immediately
6 take the oath of office and begin his or her term of office.
7 ~~Each~~ Every member ~~so~~ elected shall hold office for a period of
8 five years, which terms shall begin immediately upon taking an
9 oath to properly and faithfully discharge the duties of his or
10 her office and until his or her successor is elected and
11 qualified, and the member so elected shall not at the
12 expiration of the term be eligible to succeed himself or
13 herself. The membership of the board shall be inclusive and
14 reflect the racial, gender, geographic, urban/rural, and
15 economic diversity of the state. ~~It is the intent of the~~
16 ~~legislature one (1) member of the board shall be Black.~~
17 Vacancies Except for the board member position selected by the
18 Alabama Dental Society, vacancies on the board shall be filled
19 by the board by the appointment of the immediate past member
20 of the board, and if for any reason the immediate past member
21 of the board is unable to accept the appointment, then the
22 board shall fill the vacancy by appointment of the most recent
23 past board member who is willing to accept the appointment. If
24 no past board member accepts the appointment, then the board
25 may, by unanimous vote, appoint any licensed dentist qualified

1 ~~under the provisions of this chapter a unanimous vote of the~~
2 ~~other board members by the appointment of some other past~~
3 ~~member of the board. In the event of a vacancy in the position~~
4 ~~selected by the Alabama Dental Society, the Alabama Dental~~
5 ~~Society shall select a dentist who is qualified as provided~~
6 ~~herein to fill the vacancy.~~ Members of the board shall be
7 removed by a two-thirds vote of the registered dentists in the
8 state for neglect of duty or any just cause, by petition to
9 the secretary of the board by 10 percent of the licensed
10 dentists in the state. On or before July 1, 1962, the board
11 shall send a copy of this section to all licensed dentists in
12 the state.

13 " (b) (1) One member of the board shall be a licensed
14 dental hygienist. The dental hygienist member shall be of good
15 moral and ethical character and shall have been actively
16 engaged in the practice of dental hygiene in the State of
17 Alabama for at least five years preceding the date of
18 election. No dental hygienist member shall be a member of the
19 faculty of any dental school, dental college, dental hygiene
20 school, or dental hygiene college or receive any financial
21 benefits for teaching in any dental school, dental college,
22 dental hygiene school, or dental hygiene college or have a
23 financial interest in a commercial dental laboratory or dental
24 supply business while serving on the board.

1 "(2) The dental hygienist member shall be elected as
2 follows:

3 "a. Any group of 10 or more licensed dental
4 hygienists, residing and practicing dental hygiene in the
5 State of Alabama, may nominate a candidate for the dental
6 hygienist position by submitting a petition bearing their
7 signatures to the secretary of the board no later than the
8 first day of July in the year of an election. The board shall
9 cause election ballots to be mailed no later than September 1
10 in the year of an election to all the licensed dental
11 hygienists residing and practicing in the state and currently
12 registered as prescribed by law. The Both the annual
13 registration form and the registration fee must accompany a
14 separately sealed ballot that shall be postmarked no later
15 than October 1 and returned to the secretary of the board on
16 or before no later than the first board workday following
17 October 1 each year, and the ballots will be nullified unless
18 the voter has complied with Section 34-9-28, concerning annual
19 registration.

20 "b. Three members of the board shall be present at
21 the canvassing of the ballots. Any candidate receiving a
22 majority of the votes shall be the dental hygienist member and
23 shall take the oath of office on or before October 15 in the
24 year of his or her election. In the event no candidate
25 receives a majority of the votes cast, the board shall conduct

1 a run-off election between the two candidates receiving the
 2 largest number of votes. The board shall cause the ballots
 3 pertaining to any run-off election to be mailed on or before
 4 October 15 of the election year to all licensed dental
 5 hygienists residing and practicing in the state and currently
 6 registered as prescribed by law, and the ballots pertaining to
 7 the run-off election shall be postmarked no later than
 8 November 1 in the year of the run-off election and received by
 9 the secretary of the board ~~on or before the first day of~~
 10 ~~November in the year of any run-off election~~ no later than the
 11 first board workday following October 1. Ballots received
 12 after November 1 shall be nullified. In the event of a run-off
 13 election, the dental hygienist receiving the largest number of
 14 votes in the run-off election shall be declared elected to the
 15 board and shall immediately take the oath of office and begin
 16 his or her term of office.

17 "c. All elections as described above shall be
 18 conducted by the board.

19 "(3) The dental hygienist member shall be removed by
 20 a two-thirds vote of the registered dental hygienists in the
 21 state for neglect of duty or any just cause by petition to the
 22 secretary of the board by 10 percent of the licensed dental
 23 hygienists in the state.

24 "(4) The dental hygienist member shall hold that
 25 position for a period of five years, which term shall begin

1 immediately upon taking an oath to properly and faithfully
2 discharge the duties of his or her office and continue until
3 his or her successor is elected and qualified, and the member
4 so elected shall not at the expiration of the term be eligible
5 to succeed himself or herself. If a vacancy occurs in the
6 position of dental hygienist, the unexpired term shall be
7 filled by the board by the appointment of the immediate past
8 dental hygienist member. If for any reason the immediate past
9 dental hygienist member is unable to accept the appointment,
10 then the board shall fill the vacancy by a unanimous vote of
11 the other board members by the appointment of some other past
12 dental hygienist member. If a vacancy occurs and there is not
13 an immediate past dental hygienist member or other past dental
14 hygienist member, the vacancy shall be filled by a unanimous
15 vote of the board by the appointment of some otherwise
16 qualified dental hygienist.

17 "(5) The dental hygienist member shall advise the
18 board on matters relating to dental hygiene and shall only be
19 permitted to vote on matters relating to dental hygiene. The
20 board shall provide the dental hygienist member with timely
21 notice of all board meetings and the dental hygienist member
22 shall be allowed to attend all meetings unless prohibited by
23 law from attendance at any disciplinary hearings. The board
24 shall not adopt any rule relating to the practice of dental
25 hygiene unless the proposed rule has been submitted to the

1 dental hygienist member for review and comment at least 30
2 days prior to its adoption. The dental hygienist member shall
3 be entitled to the same compensation and expenses paid to
4 dentist members of the board pursuant to Section 34-9-41.

5 "(c) Any dentist or dental hygienist who has been
6 found guilty of violating this chapter or any provision of a
7 dental practice act of any other state and as a result his or
8 her license was revoked, suspended, or placed on probation or
9 who has been convicted of a felony, shall not be eligible for
10 election or membership on the board for a period of five years
11 from the date of the final order or consent order termination
12 of any such revocation, suspension, or probation.

13 "§34-9-41.

14 "The board shall annually elect from its membership
15 a president, vice-president and secretary-treasurer and may
16 employ a secretary who is not a member of the board, and it
17 shall not be necessary that the secretary be a dentist. The
18 board shall have a common seal. The board shall hold an annual
19 meeting in Birmingham at the University of Alabama School of
20 Dentistry as soon as practical after the graduation exercises
21 of the dental school for the purpose of examining applicants
22 for a license to practice dentistry and dental hygiene or at
23 such other times and places as the board may designate for the
24 purpose of transacting its business and examinations. Three
25 members of the board shall constitute a quorum for the

1 transaction of business at any meeting except that in
2 conducting hearings involving any of the penalties outlined
3 in Section 34-9-18 and examinations of licensure, five members
4 of the board shall be present. In conducting ~~examinations or~~
5 hearings involving any of the penalties outlined in Section
6 34-9-18, a majority of the board may appoint any former member
7 of the board and ~~such other licensed practicing dentists~~ who
8 for such purposes shall have all the powers and privileges of
9 such office as a regular board member possesses. In conducting
10 exams, a majority of the board may appoint any former member
11 of the board or such other licensed practicing dentists from a
12 jurisdiction recognized by the board who for such purposes
13 shall have all the powers and privileges of such office as a
14 regular board member possesses. Out of the funds of the board
15 the members thereof shall receive as compensation a sum to be
16 fixed by the board for each day actively engaged in the duties
17 of their office, and in addition board members shall receive
18 the same per diem and travel allowance as is paid by law to
19 state employees for each day actively engaged in the duties of
20 their office. The secretary-treasurer shall receive such
21 compensation as may be fixed by the board, which shall be in
22 addition to his per diem and expenses, provided no per diem or
23 expenses shall be allowed unless his duties require his
24 absence from his office. The secretary shall receive such
25 compensation as may be fixed by the board. The

1 secretary-treasurer shall be custodian of all property, money,
2 records and the official seal of the board. All money received
3 by the board under this chapter shall be paid to and received
4 by the secretary-treasurer of the board. The
5 secretary-treasurer shall deposit to the credit of the board
6 all funds paid to the board in a bank selected by its members.
7 The board is authorized to expend such funds as shall be
8 necessary to enforce the provisions of this chapter; to pay
9 salaries, expenses and other costs herein provided; to promote
10 the arts and science of dentistry; and for such other purposes
11 as the board shall consider to be in the best interest of
12 dentistry in this state. All the costs herein provided for
13 shall be paid by checks drawn by the secretary-treasurer and
14 countersigned by the president of the board; except the board
15 may authorize the administrative secretary to sign checks for
16 costs that do not exceed a monetary limit to be set by the
17 board in its rules. Should the property be other than money,
18 the secretary-treasurer shall provide for the safekeeping
19 thereof for the use of the board. All money, including license
20 fees, annual renewal license certificate fees, examination
21 fees and any and all other fees and receipts under the
22 provisions of this chapter, are hereby appropriated to the
23 Board of Dental Examiners to be used as herein provided.

24 "§34-9-43.

1 "The board shall exercise, subject to this chapter,
2 the following powers and duties:

3 "(1) Adopt rules for its government as deemed
4 necessary and proper.

5 "(2) Prescribe rules for qualification and licensing
6 of dentists and dental hygienists.

7 "(3) Conduct examinations to ascertain the
8 qualification and fitness of applicants for licenses as
9 dentists and dental hygienists.

10 "(4) Make rules and regulations regarding
11 sanitation.

12 "(5) Formulate rules and regulations by which dental
13 schools and colleges are approved, and formulate rules and
14 regulations by which training, educational, technical,
15 vocational, or any other institution which provides
16 instruction for dental assistants, dental laboratory
17 technicians, or any other paradental are approved.

18 "(6) Grant licenses, issue license certificates,
19 teaching permits, and annual registration certificates in
20 conformity with this chapter to such qualified dentists and
21 dental hygienists.

22 "(7) Conduct hearings or proceedings to impose the
23 penalties specified in Section 34-9-18.

24 "(8)a. Employ necessary persons to assist in
25 performing its duties in the administration and enforcement of

1 this chapter, and to provide offices, furniture, fixtures,
2 supplies, printing, or secretarial service to these persons
3 and expend necessary funds.

4 "b. Employ an attorney or attorneys, subject to the
5 approval of the Attorney General, to advise and assist in the
6 carrying out and enforcing of the provisions of this chapter.
7 ~~Provided, however, the annual contract attorney for the board~~
8 ~~providing legal advice or counsel shall not function as the~~
9 ~~board's prosecutor at disciplinary hearings nor shall such~~
10 ~~attorneys be members of the same law firm. Provided, however,~~
11 if the board contracts with an outside attorney to be general
12 counsel to the board, that attorney or any member of a law
13 firm with which he or she is associated shall not function as
14 the board's prosecutor at disciplinary hearings.

15 "(9)a. Investigate alleged violations of this
16 chapter and institute or have instituted before the board or
17 the proper court appropriate proceedings regarding the
18 violation.

19 "b. Authorize and employ investigators who comply
20 with the Peace Officers' Minimum Standards and Training Act to
21 exercise the powers of a peace officer in investigating
22 alleged violations of the drug or controlled substances laws
23 by persons licensed pursuant to this chapter, including the
24 powers of arrest and inspection of documents. These

1 investigators shall not be paid a subsistence allowance by the
2 board.

3 "(10) Adopt rules and regulations to implement this
4 chapter.

5 "(11) Publish, on a quarterly basis, all minutes,
6 except minutes of executive sessions, financial reports,
7 schedules of meetings, including anticipated executive
8 sessions, and other pertinent information on the board's
9 website no later than 90 days following the date of
10 occurrence. In addition, publish annually the rules and
11 regulations promulgated by the board, a copy of the Dental
12 Practice Act, ~~and to publish at least every two years~~ a list
13 of all persons licensed to practice under this chapter.

14 "(12) Attend meetings, seminars, work shops, or
15 events that may improve the function and efficiency of the
16 board or improve the ability of the board to enforce and
17 administer this chapter.

18 "§34-9-60.

19 "Any person licensed to practice dentistry in the
20 State of Alabama shall be authorized to use anesthesia in
21 accordance with the provisions of this section.

22 "(1) All dentists are authorized to use local
23 anesthesia.

24 "(2) Twelve months after May 29, 1985, no dentist
25 shall use general anesthesia on an outpatient basis for dental

1 patients, unless such dentist possesses a permit of
2 authorization issued by the Board of Dental Examiners.

3 "a. In order to receive such permit, the dentist
4 must apply on a prescribed application form to the Board of
5 Dental Examiners, submit an application fee ~~to be determined~~
6 ~~by the Board of Dental Examiners not to exceed \$750.00~~ and
7 produce evidence showing that he or she:

8 "1. Has completed a minimum of one year of advanced
9 training in anesthesiology and related academic subjects (or
10 its equivalent) beyond the undergraduate dental school level
11 in a training program as described in Part II of the
12 guidelines for teaching the comprehensive control of pain and
13 anxiety in dentistry; or

14 "2. Is a diplomate of the American Board of Oral and
15 Maxillofacial Surgery, or is eligible for examination by the
16 American Board of Oral and Maxillofacial Surgery, or is a
17 member of the American Association of Oral and Maxillofacial
18 Surgeons; or

19 "3. Employs or works in conjunction with a qualified
20 medical doctor who is a member of the anesthesiology staff in
21 an accredited hospital, provided that such anesthesiologist
22 must remain on the premises of the dental facility until any
23 patient given a general anesthetic regains consciousness and
24 is discharged; and

1 "4. Has a properly equipped facility for the
2 administration of general anesthesia staffed with a supervised
3 team of auxiliary personnel capable of reasonably assisting
4 the dentist with procedures, problems and emergencies incident
5 thereto. Adequacy of the facility and competence of the
6 anesthesia team shall be determined by the Board of Dental
7 Examiners as outlined below.

8 "b. Prior to the issuance of such permit, the Board
9 of Dental Examiners, at its discretion, may require an on-site
10 inspection of the facility, equipment and personnel to
11 determine if, in fact, the aforementioned requirements have
12 been met. This evaluation shall be carried out in a manner
13 prescribed by the board. The evaluation shall be conducted by
14 a team of three examiners appointed by the Board of Dental
15 Examiners. These examiners shall be dentists who are
16 authorized to administer general anesthesia.

17 "If the results of the initial evaluation are deemed
18 unsatisfactory, upon written request of the applicant, a
19 second evaluation shall be conducted by a different team of
20 examiners.

21 "(3) Each dentist who is licensed to practice
22 dentistry in the state on May 29, 1985, who desires to
23 continue to use general anesthesia shall make application on
24 the prescribed form to the Board of Dental Examiners within 12
25 months of May 29, 1985. If he meets the requirements of this

1 section, he shall be issued such a permit. If said applicant
2 does not meet the requirements of paragraph a. of subdivision
3 (2) of this section, he may be entitled to a "general
4 anesthesia permit" provided said applicant passes to the
5 satisfaction of the board an on-site inspection as provided
6 for in paragraph b. of subdivision (2) of this section.

7 "(4) Each dentist who has not been using general
8 anesthesia prior to May 29, 1985, may be granted by the board
9 a temporary provisional permit based on the applicant's
10 producing evidence that he or she has complied with paragraph
11 a. of subdivision (2) of this section above pending complete
12 processing of the application and thorough investigation of an
13 on-site evaluation as described in paragraph b. of subdivision
14 (2) of this section.

15 "§34-9-61.

16 "(a) Any dentist holding a permit of authorization
17 issued by the Board of Dental Examiners shall be subject to
18 review and such permit must be renewed annually.

19 "(b) The board shall, ~~with fee to be determined by~~
20 ~~the board not to exceed \$200.00,~~ upon payment of a renewal
21 fee, renew the general anesthesia permit annually unless the
22 holder is informed in writing that a reevaluation of his
23 credentials and facility is to be required. In determining
24 whether such reevaluation is necessary, the board shall
25 consider such factors as it deems pertinent including, but not

1 limited to, patient complaints and reports of adverse
2 occurrences. Such reevaluation shall be carried out in the
3 manner described in paragraph b. of subdivision (2) of Section
4 34-9-60.

5 "\$34-9-63.

6 "The issuance of a permit for general anesthesia
7 shall include the privilege of administering parenteral
8 sedation in accordance with this section. The issuance of a
9 permit for parenteral sedation shall include the privilege of
10 administering intravenous sedation. All current intravenous
11 sedation permit holders are entitled to a parenteral sedation
12 permit subject to the renewal and regulatory provisions
13 afforded to the Board of Dental Examiners by this chapter. The
14 term parenteral sedation shall not include the use or
15 regulation of nitrous oxide.

16 "(1) After August 1, 1993, no dentist shall use
17 parenteral sedation on an outpatient basis for dental patients
18 unless the dentist possesses a permit of authorization issued
19 by the board. The dentist applying for or holding the permit
20 shall be subject to on-site inspections as provided in
21 paragraph b. of subdivision (2) of Section 34-9-60.

22 "a. In order to receive the permit, the dentist
23 shall:

24 "1. Apply on a prescribed application form to the
25 board.

1 "2. ~~Submit a fee to be determined by the board not~~
2 ~~to exceed seven hundred fifty dollars \$750.~~

3 "3. Produce evidence showing that he or she has
4 satisfied each of the following requirements:

5 "(i) Received formal training in the use of
6 parenteral sedation from a board approved training program, is
7 competent to handle all emergencies relating to parenteral
8 sedation, and is currently certified in cardiopulmonary
9 resuscitation. The certification of the formal training shall
10 specify the total number of hours, the number of didactic
11 hours, and the number of patient contact hours. The required
12 number of didactic hours and patient contact hours shall be
13 determined by the board.

14 "(ii) Equipped a proper facility for the
15 administration of parenteral sedation, staffed with a
16 supervised team of auxiliary personnel capable of reasonably
17 assisting the dentist with procedures, problems, and
18 emergencies incident to the sedation procedure.

19 "b. Adequacy of the facility and the competency of
20 the sedation team shall be determined by the board.

21 "c. Prior to the issuance of a permit, the board may
22 require an on-site inspection of the facility, equipment, and
23 personnel to determine if, the requirements of this section
24 have been met. This evaluation shall be performed as provided
25 in subdivision (2) of this section.

1 "(2) Each dentist who is licensed to practice
2 dentistry in the state on or after August 1, 1993, who desires
3 to continue to use parenteral sedation shall make application
4 on the prescribed form to the board within 12 months of August
5 1, 1993. If he or she meets the requirements of this section,
6 or currently holds a valid intravenous sedation permit, he or
7 she shall be issued such a permit subject to all renewal and
8 regulatory requirements of Section 34-9-64. If the applicant
9 does not meet the requirements of paragraph a. of subdivision
10 (1) of this section, or does not currently hold a valid
11 intravenous sedation permit, he or she may be entitled to a
12 "parenteral sedation permit" if the applicant passes, to the
13 satisfaction of the board, an on-site inspection. The
14 inspection shall ascertain that the dentist has a properly
15 equipped facility for the administration of parenteral
16 sedation, staffed with a supervised team of auxiliary
17 personnel capable of reasonably assisting the dentist with
18 incidental procedures, problems, and emergencies.

19 "The board, in conducting the on-site inspection and
20 evaluations required in this section, shall appoint a team of
21 three examiners who shall be dentists certified to administer
22 parenteral sedation in accordance with this article.

23 "(3) A dentist utilizing parenteral sedation and the
24 auxiliary personnel of the dentist shall be currently
25 certified in cardiopulmonary resuscitation.

1 "(4) Each dentist who has not been using parenteral
2 sedation prior to August 1, 1993, may, pending complete
3 processing of an application and a thorough on-site
4 evaluation, be granted a temporary provisional permit by the
5 board, if the applicant produces evidence that he or she has
6 complied with this section.

7 "§34-9-64.

8 "The board shall renew the parenteral sedation
9 permit annually, upon payment of a renewal fee, unless the
10 holder is informed in writing that a reevaluation of his or
11 her credentials and facility is necessary. In determining
12 whether the reevaluation is necessary, the board shall
13 consider any factors as it deems pertinent including, but not
14 limited to, patient complaints and reports of adverse
15 occurrences. The reevaluation shall be performed as provided
16 in paragraph b. of subdivision (2) of Section 34-9-60. ~~The~~
17 ~~board shall set the fee to renew a parenteral sedation permit~~
18 ~~in an amount not to exceed \$750.~~

19 "§34-9-81.

20 "In order to administer oral conscious sedation, a
21 dentist must possess a general anesthesia permit, a parenteral
22 sedation permit, or an oral conscious sedation permit from the
23 board. In order to receive an oral conscious sedation permit,
24 the dentist must apply on a prescribed application form to the
25 board and submit an application fee ~~to be determined by the~~

1 board. The dentist applying for the permit must show evidence
2 that he or she has done at least one of the following:

3 "(1) Has completed an American Dental Association
4 accredited postgraduate general dentistry or specialty
5 residency program which included specific training in oral
6 conscious sedation.

7 "(2) Has completed a minimum of 16 hours' training
8 in oral conscious sedation in a course approved by the board.

9 "(3) Has certification of training in oral conscious
10 sedation by any entity or organization approved by the board.

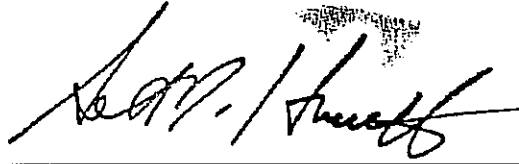
11 "§34-9-88.

12 "This permit must be renewed annually ~~and an annual~~
13 ~~fee determined by the board shall be paid for the renewal of a~~
14 ~~permit at the time of license renewal~~ upon payment of a
15 renewal fee."

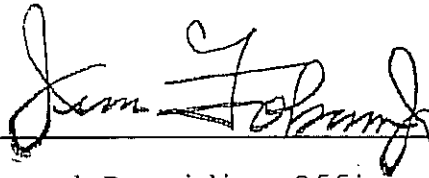
16 Section 6. The Legislature concurs in the
17 recommendations of the Sunset Committee as provided in
18 Sections 1, 2, and 3.

19 Section 7. This act shall become effective
20 immediately following its passage and approval by the
21 Governor, or its 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 10-FEB-09.

Greg Pappas
Clerk

Senate	03-MAR-09	Amended and Passed
House	03-MAR-09	Concurred in Senate Amendment

APPROVED March 5, 2009
TIME 1:05 p.m.
Bob Riley
GOVERNOR

Alabama Secretary Of State
Act Num....: 2009-18
Bill Num...: H-99
Recv'd 03/05/09 01:41pmJJB