

1-1 By: Schwertner, et al. S.B. No. 313
 1-2 (In the Senate - Filed March 6, 2017; March 7, 2017, read
 1-3 first time and referred to Committee on Health & Human Services;
 1-4 April 3, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 3, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 313 By: Schwertner

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the continuation and functions of the State Board of
 1-22 Dental Examiners; imposing fees.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 251.005, Occupations Code, is amended to
 1-25 read as follows:

1-26 Sec. 251.005. APPLICATION OF SUNSET ACT. The State Board of
 1-27 Dental Examiners is subject to Chapter 325, Government Code (Texas
 1-28 Sunset Act). Unless continued in existence as provided by that
 1-29 chapter, the board is abolished September 1, 2029 [2017].

1-30 SECTION 2. Section 252.001(a), Occupations Code, is amended
 1-31 to read as follows:

1-32 (a) The State Board of Dental Examiners consists of 11 [~~15~~]
 1-33 members appointed by the governor with the advice and consent of the
 1-34 senate as follows:

1-35 (1) six [~~eight~~] reputable dentist members who reside
 1-36 in this state and have been actively engaged in the practice of
 1-37 dentistry for at least the five years preceding appointment;

1-38 (2) three [~~two~~] reputable dental hygienist members who
 1-39 reside in this state and have been actively engaged in the practice
 1-40 of dental hygiene for at least the five years preceding
 1-41 appointment; and

1-42 (3) two [~~five~~] members who represent the public.

1-43 SECTION 3. Section 252.003, Occupations Code, is amended to
 1-44 read as follows:

1-45 Sec. 252.003. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

1-46 (a) In this section, "Texas trade association" means a
 1-47 [~~nonprofit,~~] cooperative[~~r~~] and voluntarily joined statewide
 1-48 association of business or professional competitors in this state
 1-49 designed to assist its members and its industry or profession in
 1-50 dealing with mutual business or professional problems and in
 1-51 promoting their common interest.

1-52 (b) A person may not be a member of the board and may not be a
 1-53 board employee employed in a "bona fide executive, administrative,
 1-54 or professional capacity," as that phrase is used for purposes of
 1-55 establishing an exemption to the overtime provisions of the federal
 1-56 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

1-57 (1) the person is an [An] officer, employee, or paid
 1-58 consultant of a Texas trade association in the field of health care;
 1-59 or

1-60 (2) the person's [may not be a member or employee of

2-1 ~~the board who is exempt from the state's position classification~~
2-2 ~~plan or is compensated at or above the amount prescribed by the~~
2-3 ~~General Appropriations Act for B9 of the position classification~~
2-4 ~~salary schedule.~~

2-5 ~~[(c) A person who is the] spouse is [of] an officer,~~
2-6 ~~manager, or paid consultant of a Texas trade association in the~~
2-7 ~~field of health care [may not be a board member and may not be a~~
2-8 ~~board employee who is exempt from the state's position~~
2-9 ~~classification plan or is compensated at or above the amount~~
2-10 ~~prescribed by the General Appropriations Act for B9 of the position~~
2-11 ~~classification salary schedule].~~

2-12 (c) ~~[(d)]~~ A person may not serve as a member of the board or
2-13 act as the general counsel to the board if the person is required to
2-14 register as a lobbyist under Chapter 305, Government Code, because
2-15 of the person's activities for compensation on behalf of a
2-16 profession related to the operation of the board.

2-17 SECTION 4. Section 252.010, Occupations Code, is amended by
2-18 amending Subsection (b) and adding Subsection (d) to read as
2-19 follows:

2-20 (b) The training program must provide the person with
2-21 information regarding:

2-22 (1) the law governing board operations [~~this~~
2-23 ~~subtitle];~~

2-24 (2) the programs, ~~[operated by the board,~~
2-25 ~~[(3) the role and] functions, [of the board,~~
2-26 ~~[(4) the] rules, and [of the board, with an emphasis on~~
2-27 ~~the rules that relate to disciplinary and investigatory authority,~~
2-28 ~~[(5) the current] budget of [for] the board;~~

2-29 (3) the scope of and limitations on the rulemaking
2-30 authority of the board;

2-31 (4) ~~[(6)]~~ the results of the most recent formal audit
2-32 of the board;

2-33 (5) ~~[(7)]~~ the requirements of:

2-34 (A) laws relating to [the] open meetings [law],
2-35 ~~[Chapter 551, Government Code,~~

2-36 ~~[(B) the] public information [law], [Chapter~~
2-37 ~~552, Government Code,~~

2-38 ~~[(C) the] administrative procedure [law],~~
2-39 ~~[Chapter 2001, Government Code,~~ and disclosing conflicts

2-40 ~~[(D) other laws relating to public officials,~~
2-41 ~~including conflict] of interest [laws]; and~~

2-42 (B) other laws applicable to members of the board
2-43 in performing their duties; and

2-44 (6) ~~[(8)]~~ any applicable ethics policies adopted by
2-45 the board or the Texas Ethics Commission.

2-46 (d) The executive director shall create a training manual
2-47 that includes the information required by Subsection (b). The
2-48 executive director shall distribute a copy of the training manual
2-49 annually to each board member. On receipt of the training manual,
2-50 each board member shall sign and submit to the executive director a
2-51 statement acknowledging receipt of the training manual.

2-52 SECTION 5. Chapter 254, Occupations Code, is amended by
2-53 adding Section 254.0065 to read as follows:

2-54 Sec. 254.0065. CONFIDENTIALITY OF CERTAIN INFORMATION
2-55 REGARDING APPLICANT OR LICENSE HOLDER. (a) In this section,
2-56 "license" has the meaning assigned by Section 263.0001.

2-57 (b) Except as provided by Subsection (c), all information,
2-58 records, and proceedings of the board or an authorized agent of the
2-59 board relating to the participation of an applicant for or holder of
2-60 a license in a peer assistance program or the evaluation of an
2-61 applicant or license holder under Section 263.0025 are confidential
2-62 and not subject to disclosure under Chapter 552, Government Code.

2-63 (c) The board may disclose a disciplinary action taken
2-64 against a license holder in the enforcement of Section
2-65 263.002(a)(1), (7), or (11). The board may not disclose the nature
2-66 of the impairment or condition that resulted in the board's action.

2-67 SECTION 6. Section 254.010(b), Occupations Code, is amended
2-68 to read as follows:

2-69 (b) Rules adopted under this section must include

3-1 procedures to:

3-2 (1) monitor for compliance a license holder who is
3-3 ordered by the board to perform a certain act; ~~and~~

3-4 (2) identify and monitor each license holder who
3-5 represents a risk to the public; and

3-6 (3) periodically review reports filed with the
3-7 National Practitioner Data Bank for any report of disciplinary
3-8 action taken against a license holder by another state that would
3-9 constitute grounds for disciplinary action under Section 263.002.

3-10 SECTION 7. Chapter 254, Occupations Code, is amended by
3-11 adding Section 254.0105 to read as follows:

3-12 Sec. 254.0105. MONITORING HARMFUL PRESCRIBING PATTERNS.

3-13 (a) The board shall periodically check the prescribing
3-14 information submitted to the Texas State Board of Pharmacy as
3-15 authorized by Section 481.076(a)(1), Health and Safety Code, to
3-16 determine whether a dentist licensed under this subtitle is
3-17 engaging in potentially harmful prescribing patterns or practices.

3-18 (b) The board, in coordination with the Texas State Board of
3-19 Pharmacy, shall determine the conduct that constitutes a
3-20 potentially harmful prescribing pattern or practice for purposes of
3-21 Subsection (a). In determining the conduct that constitutes a
3-22 potentially harmful prescribing pattern or practice, the board
3-23 shall consider:

3-24 (1) the number of times a dentist licensed under this
3-25 subtitle prescribes a drug listed in Section 258.0535(b); and

3-26 (2) for prescriptions described by Subdivision (1),
3-27 patterns of prescribing combinations of those drugs and other
3-28 dangerous combinations of drugs identified by the board.

3-29 (c) If the board suspects that a dentist licensed under this
3-30 subtitle may be engaging in potentially harmful prescribing
3-31 patterns or practices, the board may notify the dentist of the
3-32 potentially harmful prescribing pattern or practice.

3-33 (d) The board may initiate a complaint against a dentist
3-34 based on information obtained under this section.

3-35 SECTION 8. Chapter 255, Occupations Code, is amended by
3-36 adding Section 255.0055 to read as follows:

3-37 Sec. 255.0055. REQUIREMENTS FOR CERTAIN COMPLAINTS.

3-38 (a) In this section:

3-39 (1) "Anonymous complaint" means a complaint that lacks
3-40 sufficient information to identify the source or the name of the
3-41 person who filed the complaint.

3-42 (2) "Insurance agent" means a person licensed under
3-43 Chapter 4054, Insurance Code.

3-44 (3) "Insurer" means an insurance company or other
3-45 entity authorized to engage in the business of insurance under
3-46 Subtitle C, Title 6, Insurance Code.

3-47 (4) "Third-party administrator" means a person
3-48 required to have a certificate of authority under Chapter 4151,
3-49 Insurance Code.

3-50 (b) The board may not accept anonymous complaints.

3-51 (c) Notwithstanding any confidentiality requirements under
3-52 Chapter 552, Government Code, or this subtitle, a complaint filed
3-53 with the board by an insurance agent, insurer, pharmaceutical
3-54 company, or third-party administrator against a license holder must
3-55 include the name and address of the insurance agent, insurer,
3-56 pharmaceutical company, or third-party administrator filing the
3-57 complaint. Not later than the 15th day after the date the complaint
3-58 is filed with the board, the board shall notify the license holder
3-59 who is the subject of the complaint of the name and address of the
3-60 insurance agent, insurer, pharmaceutical company, or third-party
3-61 administrator who filed the complaint, unless the notice would
3-62 jeopardize an investigation.

3-63 SECTION 9. Section 255.006(a), Occupations Code, is amended
3-64 to read as follows:

3-65 (a) A complaint received under this chapter must be filed
3-66 with and reviewed by the board to determine jurisdiction. If the
3-67 board has jurisdiction, the board shall complete a preliminary
3-68 investigation of the complaint not later than the 60th day after the
3-69 date of receiving the complaint. The board shall first determine

4-1 whether the person regulated under this subtitle who is the subject
 4-2 of the complaint [~~license holder~~] constitutes a continuing threat
 4-3 to the public welfare. On completion of the preliminary
 4-4 investigation, the board shall determine whether to officially
 4-5 proceed on the complaint. If the board fails to complete the
 4-6 preliminary investigation in the time required by this subsection,
 4-7 the board's official investigation of the complaint is considered
 4-8 to commence on that date.

4-9 SECTION 10. Section 256.002(a), Occupations Code, is
 4-10 amended to read as follows:

4-11 (a) An applicant for a license to practice dentistry must:

- 4-12 (1) be at least 21 years of age; and
- 4-13 (2) [~~be of good moral character; and~~
- 4-14 [~~(3)~~] present proof of:

4-15 (A) graduation from a dental school accredited by
 4-16 the Commission on Dental Accreditation of the American Dental
 4-17 Association; or

4-18 (B) graduation from a dental school that is not
 4-19 accredited by the commission and successful completion of training
 4-20 in an American Dental Association approved specialty in an
 4-21 education program accredited by the commission that consists of at
 4-22 least two years of training as specified by the Council on Dental
 4-23 Education.

4-24 SECTION 11. Section 256.053, Occupations Code, is amended
 4-25 to read as follows:

4-26 Sec. 256.053. ELIGIBILITY FOR LICENSE. (a) An applicant
 4-27 for a license to practice dental hygiene in this state must be:

- 4-28 (1) at least 18 years of age;
- 4-29 (2) [~~of good moral character;~~
- 4-30 [~~(3)~~] a graduate of an accredited high school or hold a
 4-31 certificate of high school equivalency; and

4-32 (3) [~~(4)~~] a graduate of a recognized school of
 4-33 dentistry or dental hygiene accredited by the Commission on Dental
 4-34 Accreditation of the American Dental Association and approved by
 4-35 the board or an alternative dental hygiene training program.

4-36 (b) A school of dentistry or dental hygiene described by
 4-37 Subsection (a)(3) [~~(a)(4)~~] must include at least two full academic
 4-38 years of instruction or its equivalent at the postsecondary level.

4-39 SECTION 12. The heading to Section 256.103, Occupations
 4-40 Code, is amended to read as follows:

4-41 Sec. 256.103. DISPLAY OF [~~ANNUAL~~] REGISTRATION
 4-42 CERTIFICATE.

4-43 SECTION 13. The heading to Section 257.001, Occupations
 4-44 Code, is amended to read as follows:

4-45 Sec. 257.001. LICENSE EXPIRATION; TERM.

4-46 SECTION 14. Section 257.001, Occupations Code, is amended
 4-47 by amending Subsections (a) and (c) and adding Subsection (a-1) to
 4-48 read as follows:

4-49 (a) A license issued under this subtitle is valid for a term
 4-50 of one or two years, as determined by board rule.

4-51 (a-1) The board by rule may adopt a system under which
 4-52 licenses expire on various dates during the year.

4-53 (c) For the year in which the expiration date is changed,
 4-54 license fees payable [~~on or before March 1~~] shall be prorated on a
 4-55 monthly basis so that each license holder pays only that portion of
 4-56 the fee that is allocable to the number of months during which the
 4-57 license is valid. On renewal of the license on the new expiration
 4-58 date, the total license fee is payable.

4-59 SECTION 15. Sections 257.002(a) and (f), Occupations Code,
 4-60 are amended to read as follows:

4-61 (a) A person required to hold a license as a practitioner
 4-62 under this subtitle who fails or refuses to apply for renewal of a
 4-63 license and pay the required fee on or before the specified date [~~of~~
 4-64 ~~each calendar year~~] is:

- 4-65 (1) suspended from practice; and
- 4-66 (2) subject to the penalties imposed by law on any
 4-67 person unlawfully engaging in a practice regulated under this
 4-68 subtitle.

4-69 (f) The requirements prescribed by this section relating to

5-1 the payment of [~~annual~~] license fees and penalties for the failure
 5-2 to timely renew a license do not apply to license holders who are on
 5-3 active duty with the armed forces of the United States and are not
 5-4 engaged in private or civilian practice.

5-5 SECTION 16. Chapter 257, Occupations Code, is amended by
 5-6 adding Section 257.003 to read as follows:

5-7 Sec. 257.003. REFUSAL FOR VIOLATION OF BOARD ORDER. The
 5-8 board may refuse to renew a license issued under this subtitle if
 5-9 the license holder is in violation of a board order.

5-10 SECTION 17. Section 257.004(c), Occupations Code, is
 5-11 amended to read as follows:

5-12 (c) A dentist or dental hygienist licensed by the board who
 5-13 resides in a country other than the United States on the renewal
 5-14 date of the person's license and has not practiced dentistry or
 5-15 dental hygiene in the United States during the license period
 5-16 [~~year~~] preceding the renewal date is exempt from the requirements
 5-17 of Subsection (a) if the person submits proof of foreign residence
 5-18 with the person's renewal application.

5-19 SECTION 18. Section 257.005(a), Occupations Code, is
 5-20 amended to read as follows:

5-21 (a) The board shall develop a mandatory continuing
 5-22 education program for licensed dentists and dental hygienists. The
 5-23 board by rule shall establish the minimum number of [~~require a~~
 5-24 ~~license holder to complete at least 12~~] hours of continuing
 5-25 education a license holder is required to complete for each
 5-26 [~~annual~~] registration period to renew the license for a subsequent
 5-27 registration [~~annual~~] period.

5-28 SECTION 19. Section 258.002(a), Occupations Code, is
 5-29 amended to read as follows:

5-30 (a) A licensed dentist may delegate to a qualified and
 5-31 trained dental assistant acting under the dentist's general or
 5-32 direct supervision any dental act that a reasonable and prudent
 5-33 dentist would find is within the scope of sound dental judgment to
 5-34 delegate if:

5-35 (1) in the opinion of the delegating dentist, the act:
 5-36 (A) can be properly and safely performed by the
 5-37 person to whom the dental act is delegated; and
 5-38 (B) is performed in a customary manner and is not
 5-39 in violation of this subtitle or any other statute;

5-40 (2) the person to whom the dental act is delegated does
 5-41 not represent to the public that the person is authorized to
 5-42 practice dentistry; and

5-43 (3) the person to whom the dental act is delegated is
 5-44 registered under Chapter 265 [~~holds the appropriate certificate~~],
 5-45 if registration [~~a certificate~~] is required to perform the act.

5-46 SECTION 20. Section 258.0511, Occupations Code, is amended
 5-47 by adding Subsection (a-1) to read as follows:

5-48 (a-1) The board by rule shall establish conditions under
 5-49 which the board may temporarily or permanently appoint a person as
 5-50 custodian of a dentist's billing or dental patient records. In
 5-51 adopting rules under this subsection, the board shall consider the
 5-52 death of a dentist, the mental or physical incapacitation of a
 5-53 dentist, and the abandonment of billing or dental patient records
 5-54 by a dentist as conditions for appointment of a custodian.

5-55 SECTION 21. Subchapter B, Chapter 258, Occupations Code, is
 5-56 amended by adding Section 258.0535 to read as follows:

5-57 Sec. 258.0535. DUTIES RELATED TO CERTAIN PRESCRIPTIONS.

5-58 (a) A dentist may not prescribe a drug listed in Subsection (b) to
 5-59 a patient unless the dentist has reviewed the patient's
 5-60 prescription history by accessing the prescription information
 5-61 submitted to the Texas State Board of Pharmacy as authorized by
 5-62 Section 481.076(a)(5), Health and Safety Code.

5-63 (b) Subsection (a) applies only to the prescribing of:

- 5-64 (1) opioids;
 5-65 (2) benzodiazepines;
 5-66 (3) barbiturates; or
 5-67 (4) carisoprodol.

5-68 (c) Failure by a dentist to comply with the requirements of
 5-69 this section is grounds for disciplinary action under Section

6-1 263.002.

6-2 SECTION 22. Section 258.054(c), Occupations Code, is
 6-3 amended to read as follows:

6-4 (c) A dentist may not authorize a dental assistant, other
 6-5 than a dental assistant described by Section 265.001(d), to make a
 6-6 dental x-ray unless the dental assistant is registered [~~holds an~~
 6-7 ~~x-ray certificate issued~~] under Chapter 265 [~~Section 265.005~~].

6-8 SECTION 23. The heading to Subchapter D, Chapter 258,
 6-9 Occupations Code, is amended to read as follows:

6-10 SUBCHAPTER D. [~~ENTERAL~~] ADMINISTRATION OF ANESTHESIA

6-11 SECTION 24. Section 258.151, Occupations Code, is amended
 6-12 to read as follows:

6-13 Sec. 258.151. DEFINITIONS [~~DEFINITION~~]. In this
 6-14 subchapter:

6-15 (1) "High-risk patient" means a patient who has a
 6-16 level 3 or 4 classification according to the American Society of
 6-17 Anesthesiologists Physical Status Classification System.

6-18 (2) "Pediatric patient" means a patient younger than
 6-19 13 years of age[, "~~enteral~~" means any technique of administering
 6-20 ~~anesthesia in which the anesthetic is absorbed through the~~
 6-21 ~~gastrointestinal tract or oral mucosa. Examples of enterally~~
 6-22 ~~administering anesthesia include administering an anesthetic~~
 6-23 ~~orally, rectally, sublingually, or intranasally].~~

6-24 SECTION 25. Sections 258.153, 258.154, and 258.155,
 6-25 Occupations Code, are amended to read as follows:

6-26 Sec. 258.153. RULES. (a) The board shall adopt rules to
 6-27 administer this subchapter, including rules to establish [~~by rule~~]
 6-28 the minimum standards for the [~~enteral~~] administration of
 6-29 anesthesia by a dentist.

6-30 (b) The rules must be designed to protect the health,
 6-31 safety, and welfare of the public and must include requirements
 6-32 relating to:

6-33 (1) for each type of permit held, the methods that may
 6-34 be used to [~~enterally~~] administer an anesthetic and the anesthetic
 6-35 agents that may be used;

6-36 (2) dental patient evaluation, diagnosis, counseling,
 6-37 and preparation;

6-38 (3) dental patient monitoring to be performed and
 6-39 equipment to be used during a procedure and during postprocedure
 6-40 monitoring;

6-41 (4) emergency procedures, drugs, and equipment,
 6-42 including education, training, and certification of personnel, as
 6-43 appropriate, and including protocols for transfers to a hospital;

6-44 (5) the documentation necessary to demonstrate
 6-45 compliance with this subchapter; [~~and~~]

6-46 (6) the period in which protocols or procedures
 6-47 covered by rules of the board shall be reviewed, updated, or
 6-48 amended; and

6-49 (7) the minimum components required to be included in
 6-50 a preoperative checklist to be used before administering anesthesia
 6-51 to a patient and retained in the patient's dental record.

6-52 Sec. 258.154. COMPLIANCE WITH ANESTHESIA RULES. (a) A [~~On~~
 6-53 ~~and after August 31, 2002, a~~] dentist who practices dentistry in
 6-54 this state and who [~~enterally~~] administers anesthesia or performs a
 6-55 procedure for which anesthesia is [~~enterally~~] administered shall
 6-56 comply with the rules adopted under this subchapter.

6-57 (b) The board may require a dentist to submit and comply
 6-58 with a corrective action plan to remedy or address any current or
 6-59 potential deficiencies with the dentist's [~~enteral~~] administration
 6-60 of anesthesia in accordance with this subtitle or rules of the
 6-61 board.

6-62 Sec. 258.155. [~~ANNUAL~~] PERMIT REQUIRED. (a) The board
 6-63 shall issue permits to administer anesthesia in the following
 6-64 categories based on the extent to which the intended procedure will
 6-65 alter the patient's mental status and the method of anesthetic
 6-66 delivery:

6-67 (1) nitrous oxide;

6-68 (2) level 1: minimal sedation;

6-69 (3) level 2: moderate sedation (enteral

7-1 administration);
 7-2 (4) level 3: moderate sedation (parenteral
 7-3 administration); and
 7-4 (5) level 4: deep sedation or general anesthesia.

7-5 (b) A [Not later than September 1, 2002, the board shall
 7-6 require each] dentist may not administer [who enterally
 7-7 administers] anesthesia unless the dentist obtains the appropriate
 7-8 [or performs a procedure for which anesthesia is enterally
 7-9 administered to annually obtain a] permit issued under this section
 7-10 [from the board by completing a form prescribed by the board].

7-11 (c) The board shall set and impose a fee for issuance of a
 7-12 [the] permit in an amount designed to recover the costs of
 7-13 regulating a permit holder under this subchapter.

7-14 (d) [~~b~~] The board shall coordinate the times at which a
 7-15 permit must be renewed with the times at which a dentist's license
 7-16 must be renewed under Chapter 257 so that the times of registration,
 7-17 payment, notice, and imposition of penalties for late payment are
 7-18 similar and provide a minimum of administrative burden to the board
 7-19 and to dentists.

7-20 SECTION 26. Subchapter D, Chapter 258, Occupations Code, is
 7-21 amended by adding Sections 258.1551 through 258.1557 to read as
 7-22 follows:

7-23 Sec. 258.1551. PERMIT QUALIFICATIONS. (a) The board by
 7-24 rule shall establish the qualifications to obtain each permit
 7-25 described by Section 258.155, including the education and training
 7-26 required to obtain the permit.

7-27 (b) The rules adopted under Subsection (a) must require an
 7-28 applicant for a level 2, level 3, or level 4 permit to complete
 7-29 training on:

7-30 (1) pre-procedural patient evaluation, including the
 7-31 evaluation of a patient's airway and physical status as classified
 7-32 by the American Society of Anesthesiologists;

7-33 (2) the continuous monitoring of a patient's level of
 7-34 sedation during the administration of anesthesia; and

7-35 (3) the management of emergency situations.

7-36 Sec. 258.1552. JURISPRUDENCE EXAMINATION. (a) The board
 7-37 shall develop and administer an online jurisprudence examination to
 7-38 determine a permit holder's knowledge of this subchapter, board
 7-39 rules, and other applicable laws of this state relating to the
 7-40 administration of anesthesia.

7-41 (b) A permit holder must pass the online jurisprudence
 7-42 examination developed by the board once every five years.

7-43 Sec. 258.1553. PORTABILITY OF ANESTHESIA SERVICES. The
 7-44 board by rule shall require a dentist who applies for the issuance
 7-45 or renewal of a permit under this subchapter to include in the
 7-46 application a statement indicating whether the dentist provides or
 7-47 will provide a permitted anesthesia service in more than one
 7-48 location.

7-49 Sec. 258.1554. ADMINISTRATION OF ANESTHESIA TO CERTAIN
 7-50 PATIENTS. (a) A permit holder under this subchapter may not
 7-51 administer anesthesia under a level 2, level 3, or level 4 permit to
 7-52 a pediatric or high-risk patient unless the permit holder has:

7-53 (1) demonstrated to the satisfaction of the board that
 7-54 the permit holder has advanced didactic and clinical training; and

7-55 (2) obtained authorization from the board under this
 7-56 section.

7-57 (b) The board by rule may establish limitations on the
 7-58 administration of anesthesia by a permit holder to a pediatric or
 7-59 high-risk patient.

7-60 Sec. 258.1555. CAPNOGRAPHY REQUIRED FOR CERTAIN ANESTHESIA
 7-61 SERVICES. A permit holder who is administering anesthesia for
 7-62 which a level 4 permit is required shall use capnography during the
 7-63 administration of anesthesia.

7-64 Sec. 258.1556. MINIMUM EMERGENCY PREPAREDNESS STANDARDS.

7-65 (a) The board shall adopt rules to establish minimum emergency
 7-66 preparedness standards and requirements for the administration of
 7-67 anesthesia under a permit issued under this subchapter. The rules
 7-68 must require a permit holder to:

7-69 (1) have available at any time the permit holder

8-1 administers anesthesia:

8-2 (A) an adequate and unexpired supply of drugs and
8-3 anesthetic agents necessary for the safe administration of
8-4 anesthesia; and

8-5 (B) an automated external defibrillator, as
8-6 defined by Section 779.001, Health and Safety Code;

8-7 (2) conduct periodic inspections of the permit
8-8 holder's equipment in the manner and on the schedule determined by
8-9 the board;

8-10 (3) maintain and make available to the board on
8-11 request an equipment readiness log; and

8-12 (4) develop and annually update written policies,
8-13 procedures, and training requirements, specific to the permit
8-14 holder's equipment and drugs, for responding to emergency
8-15 situations involving anesthesia.

8-16 (b) Rules adopted under Subsection (a)(4) must require a
8-17 holder of a level 2, level 3, or level 4 permit to develop policies
8-18 and procedures that include:

8-19 (1) advanced cardiac life support rescue protocols;

8-20 (2) advanced airway management techniques; and

8-21 (3) if the permit holder is authorized to administer
8-22 anesthesia to pediatric patients, pediatric advanced life support
8-23 rescue protocols.

8-24 Sec. 258.1557. EMERGENCY PREPAREDNESS PROTOCOLS. (a) A
8-25 permit holder shall develop emergency preparedness protocols,
8-26 specific to the permit holder's practice setting, that establish a
8-27 plan for the management of medical emergencies in each practice
8-28 setting in which the dentist administers anesthesia.

8-29 (b) The board shall adopt rules prescribing the content that
8-30 a permit holder must include in the emergency preparedness
8-31 protocols developed under Subsection (a). The rules must require a
8-32 permit holder to include in the permit holder's emergency
8-33 preparedness protocols the written policies, procedures, and
8-34 training requirements described by Section 258.1556(a)(4).

8-35 SECTION 27. Section 258.156, Occupations Code, is amended
8-36 to read as follows:

8-37 Sec. 258.156. INSPECTIONS. (a) Except as provided by
8-38 Subsection (h), the [The] board may conduct inspections of a
8-39 dentist who applies for or holds a permit issued under this
8-40 subchapter as necessary to enforce this subchapter, including
8-41 inspections of an office site, equipment, a facility, and any
8-42 document of the dentist [documents of a dentist's practice that
8-43 relate to the enteral administration of anesthesia]. During an
8-44 inspection under this section, the board may evaluate a dentist's
8-45 competency in the administration of anesthesia.

8-46 (b) The board shall conduct an inspection with respect to a
8-47 dentist who holds a level 2, level 3, or level 4 permit not later
8-48 than the first anniversary of the date the permit is issued.

8-49 (c) The board by rule shall adopt a risk-based inspection
8-50 policy for conducting inspections under this section. The policy
8-51 must require the board to take into consideration any previous
8-52 disciplinary action taken against a permit holder for an
8-53 anesthesia-related violation when determining whether an
8-54 inspection is necessary.

8-55 (d) The board may contract with another state agency or
8-56 qualified person to conduct these inspections.

8-57 (e) The [(b) Unless it would jeopardize an ongoing
8-58 investigation, the] board is not required to give [shall provide at
8-59 least five business days'] notice before conducting an [on-site]
8-60 inspection under this section.

8-61 (f) The board shall maintain records of inspections
8-62 conducted under this section.

8-63 (g) The board by rule may establish education and training
8-64 requirements for inspectors who conduct inspections under this
8-65 section.

8-66 (h) The board may not conduct an inspection under this
8-67 section with respect to a dentist who administers anesthesia
8-68 exclusively in a state-licensed hospital or state-licensed
8-69 ambulatory surgical center. The board may by rule except from

9-1 inspection under this section a dentist who administers anesthesia
 9-2 exclusively in any other facility that is subject to inspection by
 9-3 the Department of State Health Services or an accrediting body
 9-4 under state law. The board retains all other authority provided by
 9-5 this subtitle over a dentist described by this subsection
 9-6 ~~[(c) This section does not require the board to make an on-site~~
 9-7 ~~inspection of a dentist's office].~~

9-8 SECTION 28. Chapter 258, Occupations Code, is amended by
 9-9 adding Subchapter E to read as follows:

9-10 SUBCHAPTER E. ADVISORY COMMITTEE ON DENTAL ANESTHESIA

9-11 Sec. 258.201. DEFINITION. In this subchapter, "health care
 9-12 provider" means a person who provides services under a license,
 9-13 certificate, registration, or other authority issued by this state
 9-14 or another state to diagnose, prevent, alleviate, or cure a human
 9-15 illness or injury.

9-16 Sec. 258.202. ADVISORY COMMITTEE. (a) The board shall
 9-17 establish an advisory committee to analyze and report on data and
 9-18 associated trends concerning anesthesia-related deaths or
 9-19 incidents as provided by this subchapter. The advisory committee
 9-20 consists of six members appointed by the board in the manner
 9-21 provided by Section 258.203 and must include:

- 9-22 (1) a general dentist;
- 9-23 (2) a dentist anesthesiologist;
- 9-24 (3) an oral and maxillofacial surgeon;
- 9-25 (4) a pediatric dentist;
- 9-26 (5) a physician anesthesiologist; and
- 9-27 (6) a periodontist.

9-28 (b) In appointing members to the advisory committee, the
 9-29 board shall maintain a balanced representation of general dentists
 9-30 and specialists to ensure the advisory committee has expertise with
 9-31 respect to each permit category.

9-32 (c) A board member may not serve as a member of the advisory
 9-33 committee. A former board member may not be appointed to the
 9-34 advisory committee until the second anniversary of the expiration
 9-35 of the member's term on the board.

9-36 (d) Chapter 2110, Government Code, does not apply to the
 9-37 size, composition, or duration of the advisory committee.

9-38 Sec. 258.203. APPLICATION PROCESS; APPOINTMENT OF
 9-39 COMMITTEE MEMBERS. (a) The board by rule shall develop and
 9-40 implement a process by which a person may apply to be appointed to
 9-41 the advisory committee and shall post the application and
 9-42 information regarding the application process on the board's
 9-43 Internet website.

9-44 (b) The presiding officer of the board shall review each
 9-45 application received and nominate for appointment to the advisory
 9-46 committee persons who meet the requirements of Section 258.202. A
 9-47 person nominated under this subsection may not be appointed to the
 9-48 advisory committee except on the affirmative vote of at least seven
 9-49 members of the board.

9-50 (c) The presiding officer of the board shall designate one
 9-51 of the nominated members as presiding officer of the advisory
 9-52 committee, subject to approval of the board.

9-53 Sec. 258.204. TERMS; VACANCIES. The board by rule shall
 9-54 establish:

- 9-55 (1) the length of a term of a member of the advisory
 9-56 committee and the staggering of the terms of the members; and
- 9-57 (2) the manner in which a vacancy occurring during a
 9-58 member's term is filled.

9-59 Sec. 258.205. MEETINGS. The advisory committee is subject
 9-60 to Chapter 551, Government Code, except that the advisory committee
 9-61 may conduct a closed meeting to review confidential investigative
 9-62 files provided by the board under Section 258.206.

9-63 Sec. 258.206. COMPILATION AND ANALYSIS OF INFORMATION.
 9-64 (a) The board shall identify complaints resolved by the board that
 9-65 involve anesthesia-related deaths or incidents and compile
 9-66 confidential, de-identified information derived from the
 9-67 investigative files on each complaint identified under this
 9-68 subsection.

9-69 (b) The board shall provide information compiled under

10-1 Subsection (a) to the advisory committee. The advisory committee
 10-2 shall analyze the information compiled under Subsection (a) to
 10-3 identify any trends and submit a report to the board at least
 10-4 annually on:

10-5 (1) the advisory committee's findings; and
 10-6 (2) any recommendations for changes to board rules or
 10-7 this subtitle based on the advisory committee's analysis.

10-8 (c) On request of the advisory committee, the board may
 10-9 provide confidential, de-identified investigative files for review
 10-10 by the advisory committee.

10-11 (d) The data provided to the advisory committee under this
 10-12 section may not include identifying information of a patient or
 10-13 health care provider, including:

10-14 (1) the name, address, or date of birth of the patient
 10-15 or a member of the patient's family; or

10-16 (2) the name or specific location of a health care
 10-17 provider that treated the patient.

10-18 (e) The board shall post on the board's Internet website any
 10-19 recommendations or findings reported by the advisory committee.

10-20 Sec. 258.207. COUNSEL FOR ADVISORY COMMITTEE. The board
 10-21 shall designate an attorney employed by the board to:

10-22 (1) act as counsel and provide legal advice to the
 10-23 advisory committee; and

10-24 (2) be present during the advisory committee's
 10-25 meetings and deliberations.

10-26 Sec. 258.208. CONFIDENTIALITY; PRIVILEGE. (a) Any
 10-27 information pertaining to the investigation of an
 10-28 anesthesia-related death or incident is confidential.

10-29 (b) Confidential information that is acquired by the board
 10-30 and that includes identifying information of an individual or
 10-31 health care provider is privileged and may not be disclosed to any
 10-32 person. Information that may not be disclosed under this
 10-33 subsection includes:

10-34 (1) the name and address of a patient or a member of
 10-35 the patient's family; and

10-36 (2) the identity of a health care provider that
 10-37 provided any services to the patient or a member of the patient's
 10-38 family.

10-39 (c) Advisory committee work product or information obtained
 10-40 or provided by the board under this subchapter is confidential.
 10-41 This subsection does not prevent the advisory committee or board
 10-42 from releasing information described by Subsection (d) or (e).

10-43 (d) Information is not confidential under this section if
 10-44 the information is:

10-45 (1) general information that cannot be connected with
 10-46 any specific individual, case, or health care provider; and

10-47 (2) presented as aggregate statistical information
 10-48 that describes a single data point.

10-49 (e) The advisory committee may publish statistical studies
 10-50 and research reports based on information that is confidential
 10-51 under this section, provided that the information:

10-52 (1) is published in the aggregate;

10-53 (2) does not identify a patient or the patient's
 10-54 family;

10-55 (3) does not include any information that could be
 10-56 used to identify a patient or the patient's family; and

10-57 (4) does not identify a health care provider.

10-58 (f) The board shall adopt and implement practices and
 10-59 procedures to ensure that information that is confidential under
 10-60 this section is not disclosed in violation of this section.

10-61 (g) Information that is confidential under this section is
 10-62 excepted from disclosure under Chapter 552, Government Code, as
 10-63 provided by Section 552.101 of that chapter.

10-64 Sec. 258.209. SUBPOENA AND DISCOVERY. Advisory committee
 10-65 work product or information that is confidential under Section
 10-66 258.208 is privileged, is not subject to subpoena or discovery, and
 10-67 may not be introduced into evidence in any administrative, civil,
 10-68 or criminal proceeding against a patient, a member of the family of
 10-69 a patient, or a health care provider.

11-1 Sec. 258.210. IMMUNITY. (a) A member of the advisory
 11-2 committee or a person employed by the board or acting in an advisory
 11-3 capacity to the advisory committee and who provides information,
 11-4 counsel, or services to the advisory committee is not liable for
 11-5 damages for an action taken within the scope of the functions of the
 11-6 advisory committee.

11-7 (b) Subsection (a) does not apply if the person acts with
 11-8 malice or without the reasonable belief that the action is
 11-9 warranted by the facts known to the person.

11-10 (c) This section does not provide immunity to a person
 11-11 described by Subsection (a) for a violation of a state or federal
 11-12 law or rule relating to the privacy of health information or the
 11-13 transmission of health information, including the Health Insurance
 11-14 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)
 11-15 and rules adopted under that Act.

11-16 Sec. 258.211. FUNDING. The board may accept gifts and
 11-17 grants from any source to fund the duties of the board and the
 11-18 advisory committee under this subchapter.

11-19 SECTION 29. Chapter 263, Occupations Code, is amended by
 11-20 adding Section 263.0001 to read as follows:

11-21 Sec. 263.0001. DEFINITION. In this chapter, "license"
 11-22 means a license, certificate, registration, permit, or other
 11-23 authorization that is issued under this subtitle.

11-24 SECTION 30. Section 263.001, Occupations Code, is amended
 11-25 to read as follows:

11-26 Sec. 263.001. GROUNDS FOR REFUSAL TO ISSUE LICENSE;
 11-27 APPLICATION OF OPEN MEETINGS LAW. (a) The board may refuse to
 11-28 issue a license ~~[by examination]~~ to an ~~[a dental or dental hygiene]~~
 11-29 applicant under this subtitle if the person:

11-30 (1) presents to the board fraudulent or false evidence
 11-31 of the person's qualification for examination or license;

11-32 (2) is guilty of any illegality, fraud, or deception
 11-33 during the examination or the process to secure a license;

11-34 (3) is habitually intoxicated or is addicted to drugs;

11-35 (4) commits a dishonest or illegal practice in or
 11-36 connected to dentistry or dental hygiene;

11-37 (5) is convicted of a felony under a federal law or law
 11-38 of this state; or

11-39 (6) is found to have violated a law of this state
 11-40 relating to the practice of dentistry within the 12 months
 11-41 preceding the date the person filed an application for a license to
 11-42 practice dentistry or dental hygiene.

11-43 (b) The board's deliberations with regard to an application
 11-44 for a license under this subtitle are exempt from Chapter 551,
 11-45 Government Code.

11-46 SECTION 31. Chapter 263, Occupations Code, is amended by
 11-47 adding Section 263.0025 to read as follows:

11-48 Sec. 263.0025. SUBMISSION TO MENTAL OR PHYSICAL EVALUATION.

11-49 (a) In enforcing Section 263.001(a)(3) or Section 263.002(a)(1),
 11-50 (7), or (11), the board or an authorized agent of the board, on
 11-51 probable cause, as determined by the board or agent, may request an
 11-52 applicant for or holder of a license to submit to a mental or
 11-53 physical evaluation by a physician or other health care
 11-54 professional designated by the board.

11-55 (b) If the applicant or license holder refuses to submit to
 11-56 the evaluation under Subsection (a), the board shall issue an order
 11-57 requiring the applicant or license holder to show cause why the
 11-58 applicant or license holder will not submit to the evaluation. The
 11-59 board shall schedule a hearing on the order not later than the 30th
 11-60 day after the date notice is served on the applicant or license
 11-61 holder. The board shall notify the applicant or license holder of
 11-62 the order and hearing by personal service or certified mail, return
 11-63 receipt requested.

11-64 (c) At the hearing, the applicant or license holder and the
 11-65 applicant's or license holder's attorney are entitled to present
 11-66 testimony or other evidence to show why the applicant or license
 11-67 holder should not be required to submit to the evaluation. The
 11-68 applicant or license holder has the burden of proof to show why the
 11-69 applicant or license holder should not be required to submit to the

12-1 evaluation.

12-2 (d) After the hearing, the board by order shall require the
 12-3 applicant or license holder to submit to the evaluation not later
 12-4 than the 60th day after the date of the order or withdraw the
 12-5 request for an evaluation, as applicable.

12-6 SECTION 32. Section 263.003, Occupations Code, is amended
 12-7 to read as follows:

12-8 Sec. 263.003. HEARING. A person is entitled to a hearing
 12-9 under Chapter 2001, Government Code, if the board proposes to:

12-10 (1) refuse to issue a license [~~by examination~~] to the
 12-11 person;

12-12 (2) reprimand or impose a fine on the person;

12-13 (3) place the person on probation after the person's
 12-14 license has been suspended; or

12-15 (4) suspend or revoke the license of the person.

12-16 SECTION 33. Section 263.0065(c), Occupations Code, is
 12-17 amended to read as follows:

12-18 (c) A complaint delegated under this section shall be
 12-19 referred for informal proceedings under Section 263.007 [~~263.0075~~]
 12-20 if:

12-21 (1) the committee of employees determines that the
 12-22 complaint should not be dismissed or settled;

12-23 (2) the committee is unable to reach an agreed
 12-24 settlement; or

12-25 (3) the affected license holder requests that the
 12-26 complaint be referred for informal proceedings.

12-27 SECTION 34. Section 263.007, Occupations Code, is amended
 12-28 by amending Subsection (b) and adding Subsections (c) through (k)
 12-29 to read as follows:

12-30 (b) Rules adopted under this section must require that:

12-31 (1) not later than the 180th day after the date the
 12-32 board's official investigation of a complaint is commenced, the
 12-33 board schedule an informal settlement conference unless good cause
 12-34 is shown by the board for not scheduling the conference by that
 12-35 date;

12-36 (2) the board give notice to the license holder of the
 12-37 time and place of the conference not later than the 45th day before
 12-38 the date the conference is held;

12-39 (3) the complainant and the license holder be provided
 12-40 an opportunity to be heard;

12-41 (4) the board's legal counsel or a representative of
 12-42 the attorney general be present to advise the board or the board's
 12-43 staff; and

12-44 (5) a member of the board's staff be at the conference
 12-45 to present the facts the staff reasonably believes the board could
 12-46 prove at a hearing by competent evidence or qualified witnesses
 12-47 [provide the complainant, if applicable and permitted by law, an
 12-48 opportunity to be heard,

12-49 ~~[(2) provide the license holder an opportunity to be~~
 12-50 ~~heard, and~~

12-51 ~~[(3) require the presence of a member of the board's~~
 12-52 ~~legal staff, if the board has a legal staff, or, if the board does~~
 12-53 ~~not have a legal staff, an attorney from the attorney general's~~
 12-54 ~~office to advise the board or the board's employees].~~

12-55 (c) The license holder is entitled at the conference to:

12-56 (1) reply to the staff's presentation; and

12-57 (2) present the facts the license holder reasonably
 12-58 believes the license holder could prove at a hearing by competent
 12-59 evidence or qualified witnesses.

12-60 (d) After ample time is given for the presentations, the
 12-61 informal settlement conference panel shall recommend that the
 12-62 investigation be closed or make a recommendation regarding the
 12-63 disposition of the case in the absence of a hearing under applicable
 12-64 law concerning contested cases.

12-65 (e) The board shall prioritize scheduling an informal
 12-66 settlement conference in accordance with Subsection (b)(1) to
 12-67 resolve a complaint against a license holder who has previously
 12-68 been the subject of disciplinary action by the board.

12-69 (f) A notice under Subsection (b)(2) must be accompanied by

13-1 a written statement of the nature of the allegations and the
 13-2 information the board intends to use at the informal settlement
 13-3 conference. If the board does not provide the statement or
 13-4 information at that time, the license holder may use that failure as
 13-5 grounds for rescheduling the conference. If the complaint includes
 13-6 an allegation that the license holder has violated the standard of
 13-7 care in the practice of dentistry or dental hygiene, the notice must
 13-8 include a copy of the report by the expert reviewer. The license
 13-9 holder must provide to the board the license holder's rebuttal not
 13-10 later than the 15th day before the date of the conference in order
 13-11 for that information to be considered at the conference.

13-12 (g) The board by rule shall define circumstances
 13-13 constituting good cause for purposes of Subsection (b)(1),
 13-14 including:

13-15 (1) an expert reviewer's delinquency in reviewing and
 13-16 submitting a report to the board under Section 255.0067;

13-17 (2) a temporary suspension of the license holder's
 13-18 license under Section 263.004; or

13-19 (3) the filing of a contested case against the license
 13-20 holder with the State Office of Administrative Hearings.

13-21 (h) The board by rule shall define circumstances
 13-22 constituting good cause to grant a request by a license holder for a
 13-23 continuance of the informal settlement conference.

13-24 (i) Information presented by the board or board staff in an
 13-25 informal settlement conference is confidential and not subject to
 13-26 disclosure under Chapter 552, Government Code.

13-27 (j) On request by the license holder under review, the board
 13-28 shall make a recording of the informal settlement conference
 13-29 proceeding. The recording is a part of the investigative file and
 13-30 may not be released to a third party unless authorized under this
 13-31 subtitle. The board may charge the license holder a fee to cover
 13-32 the cost of recording the proceeding.

13-33 (k) The board shall provide a copy of the recording to the
 13-34 license holder on the license holder's request.

13-35 SECTION 35. Chapter 263, Occupations Code, is amended by
 13-36 adding Sections 263.0071, 263.0072, 263.0073, and 263.0074 to read
 13-37 as follows:

13-38 Sec. 263.0071. DENTAL REVIEW COMMITTEE. (a) The dental
 13-39 review committee consists of nine members appointed by the governor
 13-40 as follows:

13-41 (1) six dentist members;

13-42 (2) two dental hygienist members; and

13-43 (3) one registered dental assistant member.

13-44 (b) A member of the committee serves a six-year term.

13-45 (c) If a vacancy occurs during a member's term, the governor
 13-46 shall appoint a replacement to fill the unexpired term.

13-47 (d) A member of the committee is entitled to receive a per
 13-48 diem for actual duty in the same manner provided for board members.

13-49 (e) A member of the committee is subject to law and the rules
 13-50 of the board, including Sections 252.003, 252.007, and 252.010, as
 13-51 if the committee member were a member of the board, except that a
 13-52 committee member is not subject to Chapter 572, Government Code.
 13-53 The training program a committee member must complete under Section
 13-54 252.010 must be an abbreviated version of the program under that
 13-55 section that is limited to training relevant to serving on a
 13-56 committee.

13-57 Sec. 263.0072. INFORMAL SETTLEMENT CONFERENCE PANEL.

13-58 (a) The board shall appoint members of the board and the dental
 13-59 review committee to serve, on a rotating basis, as panelists on an
 13-60 informal settlement conference panel for purposes of this section.

13-61 (b) In an informal settlement conference under Section
 13-62 263.007, the board shall appoint at least two panelists to
 13-63 determine whether an informal disposition is appropriate. At least
 13-64 one of the panelists must be a dentist.

13-65 (c) The board by rule shall require that at least one
 13-66 panelist be physically present at the informal settlement
 13-67 conference and may authorize another panelist to appear by video
 13-68 conference.

13-69 (d) Notwithstanding Subsection (b), an informal settlement

14-1 conference may be conducted by one panelist if the license holder
 14-2 who is the subject of the complaint waives the requirement that at
 14-3 least two panelists conduct the conference. If the license holder
 14-4 waives that requirement, the panelist may be a dentist, a dental
 14-5 hygienist, or a member who represents the public.

14-6 (e) Notwithstanding Subsections (b) and (d), an informal
 14-7 settlement conference conducted under Section 263.007 to show
 14-8 compliance with an order or remedial plan of the board may be
 14-9 conducted by one panelist.

14-10 Sec. 263.0073. ROLES AND RESPONSIBILITIES OF PARTICIPANTS
 14-11 IN INFORMAL SETTLEMENT CONFERENCE. (a) At an informal settlement
 14-12 conference under Section 263.007, the panel shall make
 14-13 recommendations for the disposition of the complaint or allegation.
 14-14 The panel may request the assistance of a board employee at any
 14-15 time.

14-16 (b) Board employees shall present a summary of the
 14-17 allegations against the license holder and of the facts pertaining
 14-18 to the allegation that the employees reasonably believe may be
 14-19 proven by competent evidence at a formal hearing.

14-20 (c) An attorney for the board shall act as counsel to the
 14-21 panel and shall be present during the informal settlement
 14-22 conference and the panel's deliberations to advise the panel on
 14-23 legal issues that arise during the proceeding. The attorney may ask
 14-24 questions of participants in the conference to clarify any
 14-25 statement made by the participant. The attorney shall provide to
 14-26 the panel a historical perspective on comparable cases that have
 14-27 appeared before the board, keep the proceedings focused on the case
 14-28 being discussed, and ensure that the board's employees and the
 14-29 license holder have an opportunity to present information related
 14-30 to the case. During the panel's deliberations, the attorney may be
 14-31 present only to advise the panel on legal issues and to provide
 14-32 information on comparable cases that have appeared before the
 14-33 board.

14-34 (d) The panel and board employees shall provide an
 14-35 opportunity for the license holder and the license holder's
 14-36 authorized representative to reply to the board employees'
 14-37 presentation and to present oral and written statements and facts
 14-38 that the license holder and representative reasonably believe could
 14-39 be proven by competent evidence at a formal hearing.

14-40 (e) An employee of the board who participated in the
 14-41 presentation of the allegation or information gathered in the
 14-42 investigation of the complaint, the license holder, the license
 14-43 holder's authorized representative, the complainant, the
 14-44 witnesses, and members of the public may not be present during the
 14-45 deliberations of the panel. Only the members of the panel and the
 14-46 attorney serving as counsel to the panel may be present during the
 14-47 deliberations.

14-48 (f) During the deliberations, the panel may not reconsider
 14-49 an expert panel's determinations that are included in a final
 14-50 written report issued under Section 255.0067.

14-51 (g) The panel shall recommend the dismissal of the complaint
 14-52 or allegations or, if the panel determines that the license holder
 14-53 has violated a statute or board rule, may recommend board action and
 14-54 terms for an informal settlement of the case.

14-55 (h) The panel's recommendations under Subsection (g) must
 14-56 be made in writing and presented to the license holder and the
 14-57 license holder's authorized representative. The license holder may
 14-58 accept the proposed settlement within the time established by the
 14-59 panel at the informal settlement conference. If the license holder
 14-60 rejects the proposed settlement or does not act within the required
 14-61 time, the board may proceed with the filing of a formal complaint
 14-62 with the State Office of Administrative Hearings.

14-63 Sec. 263.0074. DISMISSAL OF BASELESS COMPLAINT. If, during
 14-64 the 180-day period prescribed by Section 263.007(b)(1), the board
 14-65 determines that the complaint is a baseless or unfounded complaint,
 14-66 the board shall dismiss the complaint and include a statement in the
 14-67 records of the complaint that the reason for the dismissal is
 14-68 because the complaint was baseless or unfounded. The board shall
 14-69 adopt rules that establish criteria for determining that a

15-1 complaint is baseless or unfounded.

15-2 SECTION 36. Section 263.0076, Occupations Code, is amended
15-3 to read as follows:

15-4 Sec. 263.0076. INFORMAL SETTLEMENT CONFERENCE NOTICE
15-5 REGARDING CERTAIN COMPLAINTS. [~~(a)~~] If an informal settlement
15-6 conference is not scheduled for a complaint before the 180-day
15-7 period prescribed by Section 263.007(b)(1), the board shall provide
15-8 notice to all parties to the complaint. The notice must include an
15-9 explanation of the reason why the informal settlement conference
15-10 has not been scheduled. The notice under this section is not
15-11 required if the notice would jeopardize an investigation [will be
15-12 held under Section 263.0075, notice of the time and place of the
15-13 conference must be given to the license holder not later than the
15-14 45th day before the date the conference is held].

15-15 [~~(b)~~ The notice required by Subsection (a) must be
15-16 accompanied by a written statement of the specific allegations
15-17 against the license holder and the information the board intends to
15-18 use at the informal settlement conference. If the board does not
15-19 provide the statement or information when the notice is provided,
15-20 the license holder may use that failure as grounds for rescheduling
15-21 the conference.

15-22 [~~(c)~~ The license holder must provide to the board the
15-23 license holder's rebuttal not later than the 15th day before the
15-24 date of the conference in order for that information to be
15-25 considered at the conference.

15-26 [~~(d)~~ On request by a license holder under review, the board
15-27 shall make a recording of the informal settlement conference. The
15-28 recording is a part of the investigative file and may not be
15-29 released to a third party unless authorized under this subtitle.
15-30 The board may charge the license holder a fee to cover the cost of
15-31 recording the conference. The board shall provide a copy of the
15-32 recording to the license holder on the license holder's request.]

15-33 SECTION 37. Section 264.011, Occupations Code, is amended
15-34 to read as follows:

15-35 Sec. 264.011. INFORMAL ASSESSMENT OF ADMINISTRATIVE
15-36 PENALTY. This subchapter does not prevent the board from assessing
15-37 an administrative penalty using an informal proceeding under
15-38 Section 263.007 [~~263.003~~].

15-39 SECTION 38. Section 265.001, Occupations Code, is amended
15-40 to read as follows:

15-41 Sec. 265.001. REGISTRATION REQUIRED FOR CERTAIN DENTAL
15-42 ACTS. (a) Unless the dental assistant is registered under this
15-43 chapter, a dental assistant may not:

- 15-44 (1) make a dental x-ray; or
15-45 (2) monitor the administration of nitrous oxide.

15-46 (b) The board may adopt and enforce rules requiring a dental
15-47 assistant to register with the board to perform other dental acts
15-48 [the registration of dental assistants] as necessary to protect the
15-49 public health and safety.

15-50 (c) The board shall maximize the efficient administration
15-51 of this chapter by:

- 15-52 (1) developing a system to track the number of
15-53 registrations held by a dental assistant under this chapter; and
15-54 (2) coordinating the times at which a dental
15-55 assistant's registrations must be renewed so that the times of
15-56 registration, payment, notice, and imposition of penalties for late
15-57 payment are similar and the administrative burden to the board and
15-58 to the dental assistant is reduced.

15-59 (d) Notwithstanding Subsection (a)(1), a dental assistant
15-60 who is hired as a dental assistant for the first time and who has not
15-61 previously been issued a registration to make dental x-rays may
15-62 make dental x-rays without complying with this chapter until the
15-63 first anniversary of the date the dental assistant is hired.

15-64 SECTION 39. Chapter 265, Occupations Code, is amended by
15-65 adding Sections 265.0015, 265.0016, and 265.0017 to read as
15-66 follows:

15-67 Sec. 265.0015. ELIGIBILITY REQUIREMENTS FOR REGISTRATION.
15-68 (a) The board by rule shall establish the requirements for each
15-69 type of registration issued under this chapter, including requiring

16-1 a dental assistant to:
 16-2 (1) hold a high school diploma or its equivalent;
 16-3 (2) complete an educational program approved by the
 16-4 board that provides instruction on:
 16-5 (A) a dental act that requires a registration
 16-6 under this chapter;
 16-7 (B) basic life support;
 16-8 (C) infection control; and
 16-9 (D) jurisprudence;
 16-10 (3) pass an examination approved or administered by
 16-11 the board; and
 16-12 (4) meet any additional qualifications established by
 16-13 the board.
 16-14 (b) The board may approve courses of instruction and
 16-15 examinations that are provided by private entities for the purposes
 16-16 of this section.
 16-17 Sec. 265.0016. FEES. The board shall set and collect fees
 16-18 in amounts that are reasonable and necessary to cover the costs of
 16-19 administering this chapter, including registration and renewal
 16-20 fees.
 16-21 Sec. 265.0017. REGISTRATION EXPIRATION AND RENEWAL. (a) A
 16-22 registration under this chapter is valid for two years.
 16-23 (b) A dental assistant may renew a registration by paying
 16-24 the required renewal fee and complying with any other renewal
 16-25 requirements established by the board.
 16-26 (c) A dental assistant whose registration has expired may
 16-27 not engage in an activity that requires registration until the
 16-28 registration has been renewed.
 16-29 (d) The board by rule may adopt a system under which
 16-30 registrations expire on various dates during the year. For the year
 16-31 in which the expiration date is changed, the board shall prorate
 16-32 registration fees on a monthly basis so that each registration
 16-33 holder pays only that portion of the registration fee that is
 16-34 allocable to the number of months during which the registration is
 16-35 valid. On renewal of the registration on the new expiration date,
 16-36 the total renewal fee is payable.
 16-37 SECTION 40. Section 265.003, Occupations Code, is amended
 16-38 by amending Subsections (a) and (a-1) and adding Subsections (c)
 16-39 and (d) to read as follows:
 16-40 (a) A dental assistant who is not registered under this
 16-41 chapter [~~professionally licensed~~] may be employed by and work in
 16-42 the office of a licensed and practicing dentist and perform one or
 16-43 more delegated dental acts under:
 16-44 (1) the direct supervision, direction, and
 16-45 responsibility of the dentist, including[+]
 16-46 [~~(A) the application of a pit and fissure~~
 16-47 ~~sealant;~~
 16-48 [~~(B) coronal polishing, if the dental assistant~~
 16-49 ~~holds a certificate under Section 265.006; and~~
 16-50 [~~(C)~~] the application of fluoride varnish; or
 16-51 (2) the general supervision, direction, and
 16-52 responsibility of the dentist, limited to:
 16-53 (A) the making of dental x-rays in compliance
 16-54 with Section 265.001(d) [~~Section 265.005~~]; and
 16-55 (B) the provision of interim treatment of a minor
 16-56 emergency dental condition to an existing patient of the treating
 16-57 dentist.
 16-58 (a-1) A treating dentist who delegates the provision of
 16-59 interim treatment of a minor emergency dental condition to a dental
 16-60 assistant under Subsection (a)(2) [~~(a)(2)(B)~~] shall:
 16-61 (1) delegate the procedure orally or in writing before
 16-62 the dental assistant performs the procedure;
 16-63 (2) retain responsibility for the procedure; and
 16-64 (3) schedule a follow-up appointment with the patient
 16-65 within a reasonable time.
 16-66 (c) A delegating dentist remains responsible for the dental
 16-67 acts of a registered or nonregistered dental assistant performing
 16-68 the delegated dental acts.
 16-69 (d) A dental assistant to whom a delegation is made may not

17-1 represent to the public that the dental assistant is authorized to
 17-2 practice dentistry or dental hygiene.

17-3 SECTION 41. Section 265.005, Occupations Code, is amended
 17-4 by adding Subsection (p) to read as follows:

17-5 (p) This section expires September 1, 2018.

17-6 SECTION 42. Section 265.007, Occupations Code, is amended
 17-7 by adding Subsection (d) to read as follows:

17-8 (d) This section expires September 1, 2018.

17-9 SECTION 43. Chapter 265, Occupations Code, is amended by
 17-10 adding Section 265.008 to read as follows:

17-11 Sec. 265.008. CONTINUING EDUCATION REQUIRED FOR
 17-12 REGISTRATION RENEWAL. The board by rule shall establish continuing
 17-13 education requirements for dental assistants registered under this
 17-14 chapter, including a minimum number of hours of continuing
 17-15 education required to renew a registration.

17-16 SECTION 44. The heading to Subchapter C, Chapter 266,
 17-17 Occupations Code, is amended to read as follows:

17-18 SUBCHAPTER C. BOARD POWERS AND DUTIES [OF COUNCIL AND BOARD]

17-19 SECTION 45. Section 266.152(d), Occupations Code, is
 17-20 amended to read as follows:

17-21 (d) The owner of a dental laboratory registered with the
 17-22 board on September 1, 1987, is exempt from Subsection (a) if:

17-23 (1) the registration of the laboratory has been timely
 17-24 renewed [each year] since that date, and all registration fees have
 17-25 been paid;

17-26 (2) the beneficial ownership of at least 51 percent of
 17-27 the laboratory has not been transferred; and

17-28 (3) the owner is employed on the laboratory's premises
 17-29 for not less than 30 hours each week.

17-30 SECTION 46. The heading to Section 266.153, Occupations
 17-31 Code, is amended to read as follows:

17-32 Sec. 266.153. APPLICATION FOR REGISTRATION; TERM.

17-33 SECTION 47. Section 266.153, Occupations Code, is amended
 17-34 by amending Subsection (a) and adding Subsection (d) to read as
 17-35 follows:

17-36 (a) An owner or manager of a dental laboratory shall
 17-37 [annually]:

17-38 (1) apply to the board for the registration of each
 17-39 dental laboratory doing business in this state to which the owner or
 17-40 manager is connected or in which the owner or manager has an
 17-41 interest; and

17-42 (2) pay the application fee set by the board.

17-43 (d) A dental laboratory registration issued under this
 17-44 chapter is valid for a term of one or two years, as determined by
 17-45 board rule.

17-46 SECTION 48. Sections 266.154(a) and (c), Occupations Code,
 17-47 are amended to read as follows:

17-48 (a) An applicant for renewal of a dental laboratory
 17-49 registration must provide evidence satisfactory to the board that
 17-50 at least one employee who works on the dental laboratory's
 17-51 premises:

17-52 (1) has completed the minimum number of [at least 12]
 17-53 hours of continuing education during the previous registration
 17-54 period as required by board rule; or

17-55 (2) is certified as required by Section 266.152(a), if
 17-56 applicable.

17-57 (c) If the owner or manager of a dental laboratory fails to
 17-58 renew the dental laboratory's registration and pay the [annual]
 17-59 renewal fee before the date the registration expires, the board
 17-60 shall suspend the registration certificate of the laboratory.

17-61 SECTION 49. The following provisions of the Occupations
 17-62 Code are repealed:

17-63 (1) Sections 256.0531(h), (i), and (j);

17-64 (2) Section 262.001(1);

17-65 (3) Subchapter B, Chapter 262;

17-66 (4) Section 262.102(c);

17-67 (5) Section 262.1025;

17-68 (6) Section 262.103;

17-69 (7) Section 263.0075;

- 18-1 (8) Section 265.003(b);
 18-2 (9) Section 265.004;
 18-3 (10) Section 265.006;
 18-4 (11) Section 266.001(1);
 18-5 (12) Subchapter B, Chapter 266;
 18-6 (13) Section 266.101; and
 18-7 (14) Sections 266.102(a) and (d).

18-8 SECTION 50. Not later than March 1, 2018, the State Board of
 18-9 Dental Examiners shall:

18-10 (1) adopt rules and fees necessary to implement
 18-11 Chapters 258 and 265, Occupations Code, as amended by this Act; and

18-12 (2) adopt rules necessary to implement Chapter 263,
 18-13 Occupations Code, as amended by this Act.

18-14 SECTION 51. (a) The term of a member of the State Board of
 18-15 Dental Examiners serving on September 1, 2017, expires on that
 18-16 date.

18-17 (b) Not later than December 1, 2017, the governor shall
 18-18 appoint 11 members to the State Board of Dental Examiners in
 18-19 accordance with Section 252.001(a), Occupations Code, as amended by
 18-20 this Act. The governor shall appoint:

18-21 (1) two dentist members and one dental hygienist
 18-22 member to terms expiring February 1, 2019;

18-23 (2) two dentist members, one dental hygienist member,
 18-24 and one public member to terms expiring February 1, 2021; and

18-25 (3) two dentist members, one dental hygienist member,
 18-26 and one public member to terms expiring February 1, 2023.

18-27 (c) Notwithstanding Section 252.001, Occupations Code, as
 18-28 amended by this Act, the members whose terms expire under
 18-29 Subsection (a) of this section shall continue to perform the duties
 18-30 of office as a 15-member board until six members are appointed under
 18-31 Subsection (b) of this section and qualified.

18-32 (d) The governor may appoint to the board under Subsection
 18-33 (b) of this section a member whose term expires under Subsection (a)
 18-34 of this section. The expired term of a member described by this
 18-35 subsection does not constitute a full term for purposes of Section
 18-36 252.004(b), Occupations Code.

18-37 SECTION 52. Not later than December 1, 2017, the State Board
 18-38 of Dental Examiners shall appoint the members of the advisory
 18-39 committee established under Subchapter E, Chapter 258, Occupations
 18-40 Code, as added by this Act, in the manner provided by that
 18-41 subchapter.

18-42 SECTION 53. Not later than December 1, 2017, the governor
 18-43 shall appoint the members of the dental review committee in
 18-44 accordance with Section 263.0071, Occupations Code, as added by
 18-45 this Act. In making the appointments, the governor shall appoint:

18-46 (1) three members to terms expiring February 1, 2019;

18-47 (2) three members to terms expiring February 1, 2021;

18-48 and

18-49 (3) three members to terms expiring February 1, 2023.

18-50 SECTION 54. (a) Except as provided by Subsection (b) of
 18-51 this section, Section 252.010, Occupations Code, as amended by this
 18-52 Act, applies to a member of the State Board of Dental Examiners
 18-53 appointed before, on, or after the effective date of this Act.

18-54 (b) A member of the board appointed after the effective date
 18-55 of this Act who, before the effective date of this Act, completed
 18-56 the training program required by Section 252.010, Occupations Code,
 18-57 as that law existed before the effective date of this Act, is
 18-58 required to complete additional training only on the subjects added
 18-59 by this Act to the training program as required by Section 252.010,
 18-60 Occupations Code. A board member described by this subsection may
 18-61 not vote, deliberate, or be counted as a member in attendance at a
 18-62 meeting of the board held on or after December 1, 2017, until the
 18-63 member completes the additional training.

18-64 SECTION 55. Section 258.0535, Occupations Code, as added by
 18-65 this Act, applies only to a prescription issued on or after
 18-66 September 1, 2018. A prescription issued before September 1, 2018,
 18-67 is governed by the law in effect on the date the prescription was
 18-68 issued, and the former law is continued in effect for that purpose.

18-69 SECTION 56. Not later than September 1, 2022, the State

19-1 Board of Dental Examiners shall conduct an inspection under Section
 19-2 258.156, Occupations Code, as amended by this Act, with respect to a
 19-3 dentist who holds a level 2, level 3, or level 4 permit issued under
 19-4 Section 258.155, Occupations Code, before the effective date of
 19-5 this Act.

19-6 SECTION 57. (a) On the effective date of this Act, a
 19-7 certificate issued under former Section 265.004 or 265.006,
 19-8 Occupations Code, expires.

19-9 (b) The repeal of a law by this Act does not entitle a person
 19-10 to a refund of an application, licensing, or other fee paid by the
 19-11 person before the effective date of this Act.

19-12 SECTION 58. (a) On and after September 1, 2018, the State
 19-13 Board of Dental Examiners shall issue a dental x-ray registration
 19-14 under Section 265.001, Occupations Code, as amended by this Act, to
 19-15 a dental assistant who renews an unexpired certificate of
 19-16 registration issued under former Section 265.005, Occupations
 19-17 Code, and who meets the continuing education requirements
 19-18 established by the board under Section 265.008, Occupations Code,
 19-19 as added by this Act. A dental assistant described by this
 19-20 subsection is not required to meet the eligibility requirements of
 19-21 Section 265.0015, Occupations Code, as added by this Act, to obtain
 19-22 or renew a registration issued under this subsection.

19-23 (b) On and after September 1, 2018, the State Board of
 19-24 Dental Examiners shall issue a nitrous oxide monitoring
 19-25 registration under Section 265.001, Occupations Code, as amended by
 19-26 this Act, to a dental assistant who holds a current nitrous oxide
 19-27 monitoring certificate issued by the State Board of Dental
 19-28 Examiners before that date and who meets the continuing education
 19-29 requirements established by the board under Section 265.008,
 19-30 Occupations Code, as added by this Act. A dental assistant
 19-31 described by this subsection is not required to meet the
 19-32 eligibility requirements of Section 265.0015, Occupations Code, as
 19-33 added by this Act, to obtain or renew a registration issued under
 19-34 this subsection.

19-35 SECTION 59. Section 265.008, Occupations Code, as added by
 19-36 this Act, applies only to the renewal of a registration on or after
 19-37 September 1, 2018.

19-38 SECTION 60. On September 1, 2019, a certificate of
 19-39 registration issued under former Section 265.005, Occupations
 19-40 Code, or a nitrous oxide monitoring certificate issued by the State
 19-41 Board of Dental Examiners, expires.

19-42 SECTION 61. (a) Chapter 263, Occupations Code, as amended
 19-43 by this Act, applies only to the investigation or disposition of a
 19-44 complaint filed with the State Board of Dental Examiners on or after
 19-45 March 1, 2018. A complaint filed before that date is governed by
 19-46 the law in effect on the date the complaint was filed, and the
 19-47 former law is continued in effect for that purpose.

19-48 (b) The changes in law made by this Act do not affect the
 19-49 validity of a disciplinary action or other proceeding that was
 19-50 initiated before the effective date of this Act and that is pending
 19-51 before a court or other governmental entity on that date.

19-52 SECTION 62. (a) A violation of a law that is repealed by
 19-53 this Act is governed by the law in effect on the date the violation
 19-54 was committed, and the former law is continued in effect for that
 19-55 purpose.

19-56 (b) For purposes of this section, a violation was committed
 19-57 before the effective date of this Act if any element of the
 19-58 violation occurred before that date.

19-59 SECTION 63. (a) Except as provided by Subsections (b) and
 19-60 (c) of this section, this Act takes effect September 1, 2017.

19-61 (b) Sections 258.155 and 258.156, Occupations Code, as
 19-62 amended by this Act, and Section 258.1554, Occupations Code, as
 19-63 added by this Act, take effect March 1, 2018.

19-64 (c) Sections 258.002, 258.054, and 265.001, Occupations
 19-65 Code, as amended by this Act, take effect September 1, 2018.