

OCCUPATIONS CODE
TITLE 3. HEALTH PROFESSIONS
SUBTITLE D. DENTISTRY
CHAPTER 262. REGULATION OF DENTAL HYGIENISTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 262.001. DEFINITIONS. In this chapter:

(1) "Advisory committee" means the Dental Hygiene Advisory Committee.

(2) "Dental hygienist" means a person who practices dental hygiene under a license issued by the board under Chapter 256.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 262.002. PRACTICE OF DENTAL HYGIENE. (a) A person practices dental hygiene if the person:

(1) removes accumulated matter, tartar, deposits, accretions, or stains, other than mottled enamel stains, from the natural and restored surface of exposed human teeth and restorations in the human mouth;

(2) smoothes roughened root surfaces;

(3) polishes exposed human teeth, restorations in the human mouth, or roughened root surfaces;

(4) topically applies drugs to the surface tissues of the human mouth or the exposed surface of human teeth;

(5) makes dental x-rays; and

(6) performs any other service, task, or procedure prescribed by board rule.

(b) A person legally practicing dental hygiene does not violate state law regulating the practice of dentistry.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 262.003. EXEMPTIONS. This chapter does not apply to:

(1) a licensed dentist practicing dentistry in this state, except as provided by Subchapter D;

(2) a physician authorized to practice medicine in

this state; or

(3) an employee of a licensed dentist who makes dental x-rays in the office of and under the supervision of a dentist practicing dentistry in this state.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. DENTAL HYGIENE ADVISORY COMMITTEE

Sec. 262.051. DENTAL HYGIENE ADVISORY COMMITTEE. The advisory committee shall advise the board on matters relating to dental hygiene.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 262.052. ADVISORY COMMITTEE MEMBERSHIP. The advisory committee consists of six members as follows:

(1) three dental hygienist members appointed by the governor;

(2) one dentist member appointed by the board; and

(3) two members who represent the public appointed by the governor.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 262.053. MEMBERSHIP RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the advisory committee if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care;

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care;

or

(3) the person is required to register as a lobbyist

under Chapter [305](#), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the advisory committee.

(c) A person is not eligible for appointment as a member of the advisory committee if the person is a member of the board. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 17, Sec. 17, eff. Sept. 1, 2003.

Sec. 262.054. TERMS. (a) Members of the advisory committee serve staggered six-year terms with the terms of one-third of the members expiring on February 1 of each odd-numbered year.

(b) A member may not serve more than two consecutive full terms. The completion of the unexpired portion of a term does not constitute service for a full term for purposes of this subsection. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1249, Sec. 8, eff. Sept. 1, 2001. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 772 (S.B. [887](#)), Sec. 5, eff. September 1, 2009.

Sec. 262.055. PRESIDING OFFICER. The advisory committee shall elect a presiding officer from its members to serve a one-year term.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 262.0555. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the advisory committee that a member:

(1) does not have at the time of taking office the qualifications required by Section [262.052](#);

(2) does not maintain during service on the advisory committee the qualifications required by Section [262.052](#);

(3) is ineligible for membership under Section [262.053](#);

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly

scheduled advisory committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the advisory committee.

(b) The validity of an action of the advisory committee is not affected by the fact that it is taken when a ground for removal of an advisory committee member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the advisory committee of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the advisory committee, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2003, 78th Leg., ch. 17, Sec. 18, eff. Sept. 1, 2003.

Sec. 262.056. PER DIEM; REIMBURSEMENT. (a) An advisory committee member is entitled to the per diem set by the General Appropriations Act for each day the member engages in committee business.

(b) An advisory committee member may receive reimbursement for travel expenses, including expenses for meals and lodging.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.089(a), eff. Sept. 1, 2001.

SUBCHAPTER C. POWERS AND DUTIES OF BOARD RELATING TO DENTAL HYGIENISTS

Sec. 262.101. BOARD POWERS AND DUTIES. The board shall:

- (1) administer this chapter; and
- (2) regulate all matters concerning dental hygienists and the practice of dental hygiene.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 262.102. RULEMAKING AUTHORITY OF BOARD. (a) The board shall adopt and enforce rules that are necessary and advisable to carry out the purposes of and to enforce this chapter, including rules relating to professional conduct for dental hygienists.

(b) As necessary to protect public health and safety, the board may adopt and enforce a rule to establish the number of dental hygienists a dentist may employ.

(c) The board may not adopt a rule relating to the practice of dental hygiene before the 31st day after the date the proposed rule is submitted to the advisory committee for review and comment. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 262.1025. AUTHORITY OF ADVISORY COMMITTEE TO RECOMMEND RULES; ADOPTION BY BOARD. (a) The advisory committee may make a recommendation to the board relating to the regulation of the practice of dental hygiene. A recommendation under this subsection may include a proposed rule in a form suitable for publication in the Texas Register.

(b) The board may:

(1) adopt a rule in accordance with the recommendation; or

(2) reject the recommendation.

(c) If the board fails to take action on the recommendation before the 91st day after the date the recommendation is submitted to the board, the board shall adopt a rule in accordance with the recommendation.

(d) Except as provided by Subsection (e), Section [262.102\(c\)](#) applies to the adoption of a rule under this section.

(e) If the recommendation includes a proposed rule, the board is not required to comply with Section [262.102\(c\)](#) before adopting the proposed rule.

Added by Acts 2003, 78th Leg., ch. 17, Sec. 19, eff. Sept. 1, 2003.

Sec. 262.103. NOTICE OF MEETINGS. To ensure that the advisory committee properly exercises its advisory powers, the board shall provide the advisory committee with timely notice of each board meeting and a copy of the minutes of each meeting.

SUBCHAPTER D. PRACTICE BY LICENSE HOLDER

Sec. 262.151. DELEGATION OF DUTIES BY DENTIST. (a) A licensed dentist may delegate orally or in writing a service, task, or procedure to a dental hygienist who is under the supervision and responsibility of the dentist, if:

(1) the dental hygienist is licensed to perform the service, task, or procedure;

(2) the supervising dentist examines the patient:

(A) at the time the service, task, or procedure is performed by the dental hygienist; or

(B) during the 12 calendar months preceding the date of performance of the service, task, or procedure by the dental hygienist; and

(3) the dental hygienist does not:

(A) diagnose a dental disease or ailment;

(B) prescribe a treatment or a regimen;

(C) prescribe, order, or dispense medication; or

(D) perform any procedure that is irreversible or involves the intentional cutting of soft or hard tissue by any means.

(b) A licensed dentist may delegate to a dental hygienist any act that a dentist may delegate to a dental assistant.

(c) A dentist is not required to be on the premises when the dental hygienist performs a delegated act.

(d) This chapter does not prevent a dentist from authorizing a dental hygienist employed by the dentist to:

(1) instruct and educate a patient in proper oral hygiene; or

(2) provide to a patient a medication ordered by the dentist.

(e) This chapter does not prevent a dental hygienist from incidentally removing cementum during root planing.

Sec. 262.1515. DELEGATION OF DUTIES TO DENTAL HYGIENIST PRACTICING IN CERTAIN FACILITIES. (a) A licensed dentist may delegate a service, task, or procedure, pursuant to this section, to a dental hygienist, without complying with Section 262.151(a)(2) if:

(1) the dental hygienist has at least two years' experience in the practice of dental hygiene; and

(2) the service, task, or procedure is performed in one of the following locations:

(A) a nursing facility as defined in Section 242.301, Health and Safety Code;

(B) a school-based health center established under Subchapter B, Chapter 38, Education Code; or

(C) a community health center as defined by Section 136.002, Human Resources Code.

(b) The patient must be referred to a licensed dentist after the completion of a service, task, or procedure performed under Subsection (a).

(c) A dental hygienist may only perform delegated tasks or procedures with respect to a patient for six months unless the patient has been examined by a dentist in compliance with Section 262.151(a)(2).

(d) A dental hygienist may not perform any service, task, or procedure under this section without the express authorization of a dentist.

(e) The facility under Subsection (a)(2) shall note each delegated service, task, or procedure performed by the dental hygienist under this section in the patient's medical records.

Added by Acts 2001, 77th Leg., ch. 1470, Sec. 4.02, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 15.0045, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 270 (S.B. 97), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 270 (S.B. 97), Sec. 2, eff. September 1, 2009.

Sec. 262.152. PERFORMANCE OF DELEGATED DUTIES. Except as provided by Section 262.1515, a dental hygienist shall practice dental hygiene:

(1) in the dental office of a supervising dentist licensed by the board; or

(2) in an alternate setting, including a nursing home, the patient's home, a school, a hospital, a state institution, a public health clinic, or another institution, under the supervision of a supervising dentist.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.091(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 270 (S.B. 97), Sec. 3, eff. September 1, 2009.

SUBCHAPTER E. PROHIBITED PRACTICES; CIVIL LIABILITY; PENALTIES

Sec. 262.201. PROHIBITED PRACTICE. A dental hygienist may not practice or offer to practice dental hygiene under a name other than the name appearing on the person's license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 262.202. CIVIL LIABILITY. A dental hygienist who administers to a person cardiopulmonary resuscitation or other emergency care in an emergency situation is not liable to the person for damages unless the emergency care is performed in a wilfully or wantonly negligent manner.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.