

TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 11. DENTISTS, DENTAL HYGIENISTS, AND
DENTAL ASSISTANTS
ARTICLE 1. GENERAL PROVISIONS

§ 43-11-1. Definitions

As used in this chapter, the term:

(1) "Accredited dental college" and "accredited dental school" or "accredited school of dentistry" means a dental school, college, or university with an education program accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency.

(2) "Accredited dental hygiene school" means a dental hygiene education program accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency.

(3) "Advanced dental education program" means an accredited dental advanced specialty education program or accredited dental education program accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency.

(4) "Board" means the Georgia Board of Dentistry.

(5) "Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and that is produced by a pharmacological or nonpharmacological method or combination thereof. A patient whose only response is reflex withdrawal from repeated painful stimuli shall not be considered to be in a state of conscious sedation. The use of nitrous oxide is not considered conscious sedation for purposes of this chapter.

(6) "Dentistry" means the evaluation, diagnosis, prevention, or treatment, or any combination thereof, whether using surgical or nonsurgical procedures, of diseases, disorders, or conditions, or any combination thereof, of the oral cavity, maxillofacial area, or the adjacent and associated structures, or any combination thereof, and their impact on the human body provided by a dentist, within the scope of his or her education, training, and experience, in accordance with the ethics of the profession and applicable law, including, but not limited to, the acts specified in Code Section 43-11-17.

(6.1) "Executive director" means the executive director appointed by the board pursuant to Code Section 43-11-2.1.

(7) "General anesthesia" means an induced state of depressed consciousness, or an induced state of unconsciousness, accompanied by partial or complete loss of protective reflexes, including the inability to continually and independently maintain an airway and respond purposefully to physical stimulation or verbal command, and produced by a pharmacological or nonpharmacological method or combination thereof. For purposes of this chapter, "general anesthesia" includes deep sedation.

(8) "Instructor" means either a dentist or a dental hygienist whom the board has granted a teacher's or instructor's license pursuant to Code Section 43-11-42.

(9) "Licensed dental hygienist" means a dental hygienist licensed and in good standing in this state pursuant to this chapter.

(10) "Licensed dentist" means a dentist licensed and in good standing in this state pursuant to this chapter.

(11) "Training clinic" means a clinic operated as a nonprofit facility by an accredited dental college, advanced dental education program, or accredited dental hygiene school primarily to train students or residents of such college, program, or school.

§ 43-11-2. Creation of and composition of board; qualifications and voting rights of members; terms of office; vacancies; enjoining violations

(a) A board to be known as the Georgia Board of Dentistry is created. The board shall consist of 11 members to be appointed and commissioned by the Governor as provided in subsection (b) of this Code section.

(b) (1) Nine members of the board shall be dentists and shall be appointed as follows: The members of the board who are dentists serving on July 1, 1981, shall continue to serve out their respective terms of office. As each such member's term of office subsequently expires, the Governor shall appoint a new member who shall be a practicing dentist licensed by this state. The Georgia Dental Association may, at each annual meeting, nominate four reputable practicing dentists for each expired or next expiring board member's term; and, from each group of four dentists so nominated, the Governor may appoint one as the new member of said board.

(2) One member of the board shall be a dental hygienist who is not a dentist, who is a resident of this state, and who is a practicing dental hygienist in this state and shall be appointed by the Governor. No one shall be eligible as a dental hygienist member of the board unless he or she is a citizen of this state and has lawfully practiced as a dental hygienist for five or more years at the time of his or her appointment and is not financially interested in, nor connected with, any dental college or dental hygiene school. If such a member ceases to be a resident of this state or ceases practicing in this state, that position on the board shall be deemed vacated. The Georgia Dental Hygienists Association may nominate four reputable dental hygienists who are not dentists for each expired or expiring term; and, from each group of four dental hygienists so nominated, the Governor may appoint one as the new member of the board.

(3) One member of the board shall be a citizen of this state who is not a dentist or a dental hygienist and shall be appointed by the Governor.

(4) Except as otherwise provided in paragraphs (6) and (7) of this subsection, the term of office of each member of the board shall be for five years and until the appointment and qualification of a successor.

(5) Each vacancy on the board shall be filled by the Governor for the unexpired term in the same manner as the original appointment.

(6) The term of the initial member appointed pursuant to paragraph (2) of this subsection shall be for a term of two years beginning July 1, 1978, and ending June 30, 1980.

(7) The term of the initial member appointed pursuant to paragraph (3) of this subsection shall be for a term of four years beginning July 1, 1978, and ending June 30, 1982.

(c) No one shall be eligible as a dentist member of the board unless he or she is a citizen of this state and has lawfully engaged in the practice of dentistry for five or more years at the time of his

or her appointment and is not financially interested in, nor connected with, any dental college.

(d) (1) The dental hygienist member of the board may vote only on matters relating to dental hygiene, administration, and policy which do not directly relate to practical or scientific examination of dentists for licensing in this state.

(2) The citizen member of the board who is not a dentist or dental hygienist may vote only on matters relating to administration and policy which do not directly relate to practical and scientific examination of dentists and dental hygienists for licensing in this state.

(e) The board may bring an action to enjoin any person, firm, partnership, corporation, or other entity who without being licensed or registered to do so by the board engages in or practices the profession of dentistry. The proceeding shall be filed in the county in which such person resides or, in the case of a firm, partnership, corporation, or other entity where the firm, partnership, corporation, or other entity maintains its principal office. Unless it shall be made to appear that such person, firm, partnership, corporation, or other entity so engaging in or practicing dentistry is licensed or registered, the injunction shall be issued, and such person, firm, partnership, corporation, or other entity shall be perpetually enjoined from such activities throughout the state. It shall not be necessary in order to obtain the equitable relief provided in this subsection that the board allege and prove that there is no adequate remedy at law. It is declared that such unlicensed activities as are mentioned in this chapter are a menace and a nuisance dangerous to the public health, safety, and welfare.

§ 43-11-2.1. Administrative transfer of board to Department of Community Health; appointment of executive director; powers, duties, and functions of executive director; location of meetings and hearings; hiring of investigators; general provisions

(a) On and after July 1, 2013, the board shall not be under the jurisdiction of the Secretary of State but shall be a division of the Department of Community Health; provided, however, that except as otherwise specifically provided, the board shall be autonomous from the Board of Community Health and the commissioner of community health and shall exercise its quasi-judicial, rule-making, licensing, or policy-making functions independently of the department and without approval or control of the department and prepare its budget and submit its budgetary requests, if any, through the department. Such transfer shall in no way affect any existing obligations, liabilities, or rights of the board, as such existed on June 30, 2013. The board shall have with respect to all matters within the jurisdiction of the board as provided under this chapter the powers, duties, and functions of professional licensing boards as provided in Chapter 1 of this title.

(b) The board shall appoint and fix the compensation, which shall be approved by the Board of Community Health, of an executive director of such board who shall serve at the pleasure of the board. Any reference in this chapter to the executive director shall mean the executive director appointed pursuant to this subsection. The executive director shall have those duties and powers prescribed by the board and any power, duty, and functions granted to the division director with respect to professional licensing boards under Chapter 1 of Title 43 but shall not be subject to any approval or other powers exercised by the Secretary of State.

(c) Meetings and hearings of the board shall be held at the site of the office of the board or at such other site as may be specified by the president of the board. A majority of the members of the board shall constitute a quorum for the transaction of business of the board.

(d) The board, through the executive director, may hire investigators for the purpose of conducting investigations. Any person so employed, if a P.O.S.T. certified peace officer under Chapter 8 of Title 35, shall be considered to be a peace officer and shall have all powers, duties, and status of a peace officer of this state; provided, however, that such investigators shall only be authorized, upon written approval of the executive director, notwithstanding Code Sections 16-11-126 and 16-11-129, to carry firearms in the performance of their duties and exercise the powers of arrest in the performance of their duties.

(e) The venue of any action involving members of the board shall be the county in which is found the primary office of the governmental entity of which the defendant is an officer. The executive director of the board shall not be considered a member of the board in determining the venue of any such action and no court shall have jurisdiction of any such action solely by virtue of the executive director residing or maintaining a residence within its jurisdiction.

(f) The board shall give point credit to veterans in the same manner as required under Code Sections 43-1-9 through 43-1-13.

(g) Initial judicial review of a final decision of the board shall be held solely in the superior court of the county of domicile of the board.

(h) The executive director shall make a report no later than December 31 of each year covering the activities of the board for that calendar year, which shall be made available to any member of the General Assembly upon request.

(i) The executive director shall prepare and maintain a roster containing the names and addresses of all current dental and dental hygiene licensees. A copy of this roster shall be available to any person upon request at a fee prescribed by the executive director sufficient to cover the cost of printing and distribution.

(j) The executive director, with the approval of the board, notwithstanding any other provisions of law to the contrary, shall enter into such contracts as are deemed necessary to carry out this chapter to provide for all services required of the board.

(k) It shall be the duty of the executive director to keep minutes and a record of all acts of the board and such other books and records as may be necessary to show the acts of the board.

§ 43-11-3. Election of officers

The board shall elect from its members a president and such other officers as the board in its discretion may see fit.

§ 43-11-4. Meetings

It shall be the duty of the board to meet annually at the close of the session of a majority of the dental colleges and to hold such other meetings as the duties of the board may require. It shall also be the duty of the board to meet in any called meeting that may be ordered in writing by not less than three members of the board, or by its president, upon not less than 15 days' notice in writing, stating the time, place, and object of such called meeting.

§ 43-11-5. Duty of members to notify executive director of address

Each member of the board, upon the receipt of his or her commission, shall file with the executive director his or her post office address and thereafter a notice of any change thereof. Any notice mailed to such address by the executive director shall be deemed to comply with the requirements of this chapter as notice to him or her.

§ 43-11-6. Expense and mileage allowances; other reimbursements

Each member of the board shall receive the expense allowance as provided by subsection (b) of Code Section 45-7-21 and the same mileage allowance for the use of a personal car as that received by other state officials and employees or a travel allowance of actual transportation cost if traveling by public carrier within this state. Each board member shall also be reimbursed for any conference or meeting registration fee incurred in the performance of his or her duties as a board member. For each day's service outside of the state as a board member, such member shall receive actual expenses as an expense allowance as well as the mileage allowance for the use of a personal car equal to that received by other state officials and employees or a travel allowance of actual transportation cost if traveling by public carrier or by rental motor vehicle. Expense vouchers submitted by board members are subject to approval of the president and executive director. Out-of-state travel by board members must be approved by the board president and the executive director.

§ 43-11-7. Powers and duties of board

The board shall perform such duties and possess and exercise such powers, relative to the protection of the public health and the control and regulation of the practice of dentistry as this chapter prescribes and confers upon it. The board shall also have the following powers and duties:

- (1) To adopt, amend, and repeal rules and regulations to carry out the performance of its duties as set forth in this chapter;
- (2) To examine all applicants for licenses to practice dentistry who are entitled under this chapter to be so examined and issue licenses to practice dentistry according to this chapter;
- (3) To make all necessary bylaws and rules for the governance of the board and the performance of its duties;
- (4) To have and use a common seal bearing the name "Georgia Board of Dentistry" by which the board shall authenticate the acts of the board;
- (5) To establish rules regarding licensure including, but not limited to, inactive status as the board deems appropriate;

(6) To issue, deny, or reinstate the licenses or permits of duly qualified applicants for licensure or permits under this chapter;

(7) To revoke, suspend, issue terms and conditions, place on probation, limit practice, fine, require additional dental training, require dental community service, or otherwise sanction licensees, permit holders or others over whom the board has jurisdiction under this chapter;

(8) To employ an executive director and such other staff as the board may deem necessary and appropriate to implement this chapter and provide support and who shall be subject to the same confidentiality requirements of the board;

(9) To keep a docket of public proceedings, actions, and filings;

(10) To set its office hours;

(11) To set all reasonable fees by adoption of a schedule of fees approved by the board.

The board shall set such fees sufficient to cover costs of operation;

(12) To adopt necessary rules concerning proceedings, hearings, review hearings, actions, filings, depositions, and motions related to uncontested cases;

(13) To initiate investigations for purposes of discovering violations of this chapter;

(14) To administer oaths, subpoena witnesses and documentary evidence including dental records, and take testimony in all matters relating to its duties;

(15) To conduct hearings, reviews, and other proceedings according to Chapter 13 of Title 50;

(16) To conduct investigative interviews;

(17) To issue cease and desist orders to stop the unlicensed practice of dentistry or other professions licensed or permitted under this chapter and impose penalties for such violations;

(18) To refer cases for criminal prosecution or injunctive relief to appropriate prosecuting attorneys or other law enforcement authorities of this state, another state, or the United States;

(19) To release investigative or applicant files to another enforcement agency or lawful licensing authority in another state;

(20) To sue and be sued in a court of competent jurisdiction;

(21) To enter into contracts; and

(22) To accept donations, contributions, grants, or bequests of funds or property.

§ 43-11-8. Board to examine applicants, issue licenses, make bylaws and rules; seal; books and records

Reserved. Repealed by Ga. L. 2013, p. 192, § 2-6/ HB 132, effective July 1, 2013.

§ 43-11-9. Rules and regulations affecting dental hygienists, dental assistants, or other persons

In order to protect and promote the public health and welfare of the citizens of this state, the board shall prescribe by rule or regulation those acts, services, procedures, and practices which may be performed by dental hygienists, dental assistants, or other persons at the direction of and under the supervision of a licensed dentist and shall impose such requirements and restrictions, including the degree of supervision required, on the performance thereof by such dental hygienists, dental assistants, and other persons as it shall deem necessary and proper.

§ 43-11-10. Dental specialties

The board is authorized to provide by rule or regulation for definitions of the several dental specialties.

§ 43-11-11. Gathering of census data on practicing dentists and dental hygienists; standard form

(a) The board shall gather census data on each dentist and dental hygienist in this state. Such census data shall be obtained from each dentist and dental hygienist as part of the license renewal process on a biennial basis. Renewal of a license shall be contingent on completion and provision of a census questionnaire to the board. Failure by a licensee to submit the census questionnaire shall authorize the board to refuse to grant a license renewal, revoke a license, or discipline a licensee under Code Section 43-11-47.

(b) The board shall by regulation establish a standard form for the collection of census data. Such form and the census data obtained shall be available for dissemination to any member of the public.

(c) The standard form shall at a minimum request the following information from dentists renewing their license:

- (1) The dentist's age and gender;
 - (2) Each location identified by ZIP Code in which the dentist operates a private dental practice or practices dentistry;
 - (3) Whether the dentist is a specialist and the specialty in which the dentist is engaged;
- and
- (4) Whether the dentist practices dentistry full time, which shall mean 30 or more hours per week, or part time, which shall mean less than 30 hours per week.

(d) The standard form shall at a minimum request the following information from dental hygienists renewing their license:

- (1) The dental hygienist's age and gender;
- (2) Each location identified by ZIP Code in which the dental hygienist provides treatment services; and
- (3) Whether the dental hygienist provides treatment full time, which shall mean 30 or more hours per week, or part time, which shall mean less than 30 hours per week.

§ 43-11-12. Public inspection of board records; nondisclosure of confidential records

It shall be the duty of the executive director to keep at his or her office the minutes of the board, together with all the books and records of the board, which shall be public records open to inspection by the public except on Sundays and legal holidays. The following shall be treated as confidential and need not be disclosed without prior approval of the board:

- (1) Applications and other personal information submitted by applicants, except to the applicant, staff, and the board;

(2) Information, favorable or unfavorable, submitted by a reference source concerning an applicant, except to the staff and board;

(3) Examination questions and other examination materials, except to the staff and the board; and

(4) The deliberations of the board with respect to an application, an examination, a complaint, an investigation, or a disciplinary proceeding, except as may be contained in the official board minutes.

§ 43-11-13. Service of orders and subpoenas of board; service of notice or process on executive director

(a) It shall be the duty of the several sheriffs, their deputies, and the constables to serve any and all lawful orders and subpoenas of the board. The board may also appoint any other person to serve any decision, order, or subpoena of the board, and it shall be that person's duty to execute the same.

(b) All orders and processes of the board shall be signed and attested by the executive director or the president of the board in the name of the board with its seal attached; and any notice or legal process necessary to be served upon the board may be served upon the executive director.

§ 43-11-14. Enforcement of orders and subpoenas of board; contempt

The board shall have the power to enforce any and all of its lawful orders or subpoenas; to punish as for a contempt anyone obstructing or violating the same and shall also have the power to conduct any and all hearings before it in an orderly and legal manner; to punish anyone as for a contempt who may attempt to or who shall interfere with or in any manner obstruct such hearing; and may also punish as for a contempt any act of indecorum or discourtesy committed in the presence of the board when in session. The board may fine anyone an amount not exceeding \$100.00 for a contempt and in default of the payment thereof may make application to any superior court having jurisdiction to confine the offender to jail for not more than ten days.

§ 43-11-15. Enforcement of chapter

For the purpose of carrying out this chapter, the board is authorized to enforce this chapter by prosecution or otherwise and to authorize the payment of expenses incurred in prosecuting cases out of the funds collected under this chapter.

§ 43-11-16. Liability for action of peer review committee or board

No dentist licensed under this chapter and acting or serving on a peer review committee or board or hospital review committee shall be liable for damages for any action of such board or committee or for any official action taken or recommendation made as a member of such board or committee.

§ 43-11-17. Acts which constitute the practice of dentistry

(a) Except as expressly provided in this chapter, any person who performs any of the following procedures, operations, or services shall be regarded as practicing dentistry within the meaning of this chapter:

(1) Operates or performs part of any dental operation of any kind upon the human oral cavity, teeth, gingiva, alveolar process, maxilla, mandible or associated structures, or associated contiguous masticatory structures for the treatment of diseases or lesions of such structures;

(2) Extracts teeth or attempts to correct a malposition thereof;

(3) Fills or crowns a human tooth or teeth;

(4) Does any dental operation whatsoever on the human oral cavity, teeth, gingiva, alveolar process, maxilla, mandible or associated structures, or associated contiguous masticatory structures;

(5) Examines any human oral cavity, teeth, gingiva, alveolar process, maxilla, mandible or associated structures, or associated contiguous masticatory structures or takes an impression thereof for the purpose of diagnosing, treating, or operating upon the same;

(6) Supplies, makes, fits, repairs, adjusts, or relines, directly for or to an ultimate user of the product in the State of Georgia, any appliance, cap, covering, prosthesis, or cosmetic covering, as defined by rules and regulations established by the board, usable on or as human teeth unless such provision, production, fit, repair, adjustment, or reline of such product is ordered by and returned to a licensed dentist or unless such product is used solely for theatrical purposes as defined by rules and regulations established by the board;

(7) Undertakes to do or perform any physical evaluation of a patient in his or her office or in a hospital, clinic, or other medical or dental facility prior to, incident to, and appropriate to the performance of any dental services or oral or maxillofacial surgery;

(8) Diagnoses dental radiographs or makes radiographs except for use by a licensed dentist or a licensed physician; or

(9) By any means whatsoever makes it known, implies, or holds out to the public in any fashion that such person will do any of the operations, procedures, or services set forth in this subsection.

(b) Proof of any one or all of the acts mentioned in this Code section shall constitute prima-facie evidence of the practice of dentistry.

§ 43-11-18. Use of full names of practitioners

All signs, cards, announcements, advertisements, or methods used to state or imply that dentistry may or will be done by anyone at any place in this state shall be required to list the full name of at least one individual practicing dentistry in such place; provided, however, that the names of all dentists practicing at a location shall be supplied to any person who inquires, and a list containing the names of all dentists practicing at a location shall be posted at the entry of such location.

§ 43-11-19. Compliance with chapter as prerequisite to collection of fees for services

No person who practices dentistry in this state shall be entitled to collect any fee or reward for his or her services without first complying with this chapter.

§ 43-11-20. Training and affiliated sites; clinics; licensure examination

(a) Nothing in this chapter shall prohibit accredited dental colleges or advanced dental education programs from maintaining on-campus training clinics and affiliated sites for the purpose of educational training of dental students or dental residents approved by the board under the supervision of licensed dentists or instructors; nor shall this chapter prevent licensed dental practitioners of other states and countries from giving clinics before any dental society or association of this state whose objects are the advancement and improvement of dentistry as a science.

(b) Nothing in this chapter shall prevent students of accredited dental colleges or residents in advanced dental education programs in this state from engaging in activities otherwise defined as the practice of dentistry, provided that said students work under the direct supervision and responsibility of a licensed dentist or instructor as a part of a training clinic; nor shall this chapter prevent students of accredited dental hygiene schools in this state from engaging in activities otherwise defined as the practice of dental hygiene, provided that said students work under the direct supervision and responsibility of a licensed dentist or dental hygienist as a part of an on-campus training clinic or at affiliated sites approved by said schools, colleges, or programs and the board for the purpose of educational training. Nothing in this chapter shall prevent said schools or colleges of dentistry or dental hygiene or advanced dental education programs from establishing and collecting charges for services rendered by training students or residents under the supervision of a licensed dentist, licensed dental hygienist, or instructor. These charges shall not exceed charges made by similar dental schools and colleges and advanced dental education programs located within the United States.

(c) Nothing in this chapter shall be construed to prohibit the administration of a board approved clinical licensure examination as a prerequisite for licensure as a dentist or dental hygienist in this state. Nothing in this chapter shall prevent the conducting of a Georgia clinical licensure examination by a board approved examiner who is licensed as a dentist or dental hygienist in another jurisdiction. Nothing in this chapter shall prevent the taking of a Georgia clinical licensure examination by an individual who is eligible to apply for licensure as a dentist or dental hygienist in this state.

§ 43-11-21. Conscious sedation

(a) No dentist licensed and practicing in the State of Georgia shall administer either single or multiple pharmacologic agents by oral, parenteral, enteral, transdermal, or transmucosal route that renders a patient to a state of conscious sedation as defined in Code Section 43-11-1, unless such dentist has been issued a permit by the board under the conditions specified therefor in this Code section. The dentist shall ensure that the pharmacologic agents and methods used to administer such agents shall include a margin of safety so that loss of consciousness of the

patient is unlikely. This Code section shall not restrict the use of nitrous oxide or pharmacological agents that do not render a patient to a state of conscious sedation. Such permit shall be subject to biennial renewal at the time the dentist is required to renew that dentist's license to practice dentistry. It shall be the responsibility of the dentist to provide such information as the board may require and to pay the separate initial issuance and renewal fees for the permit as may be established by the board.

(b) No dentist shall be issued a permit under this Code section unless the board has received satisfactory evidence that such dentist:

(1) Has received formal training in the use of conscious sedation at an institution accredited by the Commission on Dental Accreditation of the American Dental Association (ADA), its successor agency, or other board approved organization and is certified by such organization as competent in the administration of pharmacologic agents for conscious sedation and the handling of emergencies relating to conscious sedation. Such certification shall specify the type, number of hours, and length of training. The minimum didactic hours, patient contact hours, and number of patients sedated under supervision shall be established by rule or regulation of the board;

(2) Utilizes a properly equipped facility for the administration of conscious sedation, including physical plant and equipment, which has been evaluated and certified by an on-site examination; and

(3) Has demonstrated to the satisfaction of the board or any designee thereof proficiency in administering sedative techniques in the dentist's office on a patient or patients in a safe and effective manner.

(c) In enforcing the provisions of this Code section, the board is authorized to designate qualified persons to perform the on-site examinations and is further authorized to provide by rule or regulation for standards for physical plant, equipment, and personnel to be utilized in the induction of conscious sedation.

(d) The board or its appointed designee may, upon reasonable notice, make on-site inspections of the facility, equipment, and personnel of a dentist issued a permit under this Code section to determine if the standards of paragraph (2) of subsection (b) of this Code section are being maintained.

(e) (1) The board may, upon proper application, grant a provisional permit to administer conscious sedation to any dentist who meets the requirements of paragraph (1) of subsection (b) of this Code section.

(2) A provisional permit issued under this subsection shall expire six months after its issuance or upon the board's determination by site visit that the requirements of paragraph (2) or (3) of subsection (b) of this Code section have not been met, whichever occurs earlier. The provisional permit may be renewed once, at the discretion of the board, for a period not to exceed six months following the original expiration date.

(f) A dentist holding a current, valid permit to administer general anesthesia as provided in this chapter shall not be required to obtain a permit under this Code section in order to administer conscious sedation.

(g) A permit issued under this Code section may be revoked or not renewed if the board determines that the dentist holding such permit no longer meets any requirement of subsection (b) of this Code section. The board shall provide notice and opportunity for hearing under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," in any case in which it revokes or refuses to renew a permit, provided that summary action regarding such permit shall be authorized under Code Section 50-13-18.

(h) (1) This Code section shall not prohibit a person who is duly licensed to practice medicine in this state and who is a member of the anesthesiology staff of an institution classified as a hospital and issued a permit as an institution under Code Section 31-7-1 from administering conscious sedation in a dental facility, except that such anesthesiologist shall remain on the premises of the dental facility until any patient given conscious sedation by such anesthesiologist is stabilized and has regained consciousness.

(2) This Code section shall not prohibit a person who is duly licensed as a certified registered nurse anesthetist in this state from administering conscious sedation in a dental facility, provided that such sedation is administered under the direction and responsibility of a dentist duly permitted under this Code section and that such nurse anesthetist shall remain on the premises of the dental facility until any patient given conscious sedation by such nurse anesthetist is stabilized and has regained consciousness.

§ 43-11-21.1. General anesthesia

(a) No dentist shall administer general anesthesia on an outpatient basis unless such dentist has been issued a permit by the board under the conditions specified in this Code section. Such permit shall be subject to biennial renewal at the time the dentist is required to renew his or her license to practice dentistry. It shall be the responsibility of the dentist to provide such information as the board may require and to pay the separate initial issuance and renewal fees for the permit as may be established by the board.

(b) No dentist shall be issued a permit under this Code section nor have such permit renewed unless the board has received satisfactory evidence that such dentist:

(1) (A) Has successfully completed a minimum of one year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level at an institution accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency or by a nationally recognized health care accreditation body for hospitals; or

(B) Is a diplomate of the American Board of Oral and Maxillofacial Surgery, is a member of the American Association of Oral and Maxillofacial Surgeons, or is a fellow of the American Dental Society of Anesthesiology;

(2) Utilizes a properly equipped facility for the administration of general anesthesia, including physical plant and equipment which has been evaluated and certified by an on-site examination; and

(3) Has demonstrated to the satisfaction of the board or any designee thereof proficiency in administering general anesthesia on a patient or patients in the dentist's office in a safe and effective manner.

(c) In enforcing the provisions of this Code section, the board is authorized to designate qualified persons to perform the on-site examination and is further authorized to provide by rule or regulation for standards for physical plant, equipment, and personnel to be utilized in the administration of general anesthesia.

(d) (1) This Code section shall not prohibit a person who is duly licensed to practice medicine in this state and who is a member of the anesthesiology staff of an institution classified as a hospital and issued a permit as an institution under Code Section 31-7-1 from administering general anesthesia in a dental facility, except that such anesthesiologist shall remain on the premises of the dental facility until any patient given a general anesthetic by such anesthesiologist is stabilized and has regained consciousness.

(2) This Code section shall not prohibit a person who is duly licensed as a certified registered nurse anesthetist in this state from administering general anesthesia in a dental facility, provided that such anesthesia is administered under the direction and responsibility of a dentist duly permitted under this Code section and that such nurse anesthetist shall remain on the premises of the dental facility until any patient given a general anesthetic by such nurse anesthetist is stabilized and has regained consciousness.

(e) The board or its authorized designee may, upon reasonable notice, conduct an on-site inspection of the facility, equipment, and personnel of a dentist issued a permit under this Code section to determine if the standards of paragraph (2) of subsection (b) of this Code section are being maintained.

(f) The board may, upon proper application, grant a provisional permit to any dentist who meets the requirements of subparagraph (b)(1)(A) or (b)(1)(B) of this Code section, but such permit shall expire six months after its issuance or upon the board's determination by site visit that the requirements of paragraph (2) or (3) of subsection (b) of this Code section have not been met, whichever occurs earlier. The provisional permit may be renewed once, at the discretion of the board, for a period not to exceed six months following the original expiration date.

(g) A permit issued under this Code section may be revoked or not renewed if the board determines that the dentist holding such permit no longer meets any requirement of subsection (b) of this Code section. The board shall provide notice and opportunity for hearing under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," in any case in which it revokes or refuses to renew a permit, provided that summary action regarding such permit shall be authorized under Code Section 50-13-18.

§ 43-11-21.2. Report of morbidity or mortality

(a) All dentists licensed to practice in Georgia shall submit a complete report to the board of any morbidity or mortality occurring in the course of such dentist's practice or other injury which results in temporary or permanent physical injury requiring any period of hospitalization. This report shall be filed with the board no later than 30 days following such incident and shall contain such information as the board shall deem necessary to investigate the circumstances of the incident.

(b) Any report received by the board pursuant to this Code section shall be subject to the limitations on disclosure set forth in paragraph (2) of subsection (h) of Code Section 43-11-47.

§ 43-11-22. Exceptions to application of chapter

This chapter shall not apply to physicians licensed in this state in extracting teeth or performing surgical operations. This chapter also shall not apply to any person who extracts any exfoliating deciduous teeth.

§ 43-11-23. Termination

Repealed by Ga. L. 1992, p. 3137, § 11, effective July 1, 1992.

TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 11. DENTISTS, DENTAL HYGIENISTS, AND
DENTAL ASSISTANTS
ARTICLE 2. LICENSES FOR THE PRACTICE OF
DENTISTRY

§ 43-11-40. Qualification of applicants; criminal background check

(a) (1) Applicants for a license to practice dentistry must have received a doctor of dental surgery (D.D.S.) degree or a doctor of dental medicine (D.M.D.) degree from a dental school approved by the board and accredited by the Commission on Dental Accreditation of the American Dental Association (ADA) or its successor agency, if any. Those applicants who have received a doctoral degree in dentistry from a dental school not so accredited must comply with the following requirements in order to submit an application for licensure:

(A) Successful completion at an accredited dental school approved by the board of the last two years of a pre-doctoral program and receipt of the doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) degree; and

(B) Certification by the dean of the accredited dental school where such supplementary program was taken that the candidate has achieved the same level of didactic and clinical competency as expected of a graduate of the school receiving a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) degree.

(2) The board may establish by rule or regulation the requirements for documentation of an applicant's educational and personal qualifications for licensure.

(3) In order to be granted a license under this Code section, all applicants must pass a clinical examination approved by the board and a jurisprudence examination on the laws of this state and rules and regulations as they relate to the practice of dentistry as established or approved by the board, which shall be administered in the English language.

(b) All applications to the board for a license shall be made through the executive director, who shall then submit all such applications to the board.

(c) Subject to the provisions of subsection (a) of Code Section 43-11-47, applicants who have met the requirements of this Code section shall be granted licenses to practice dentistry.

(d) Application for a license under this Code section shall constitute consent for performance of a criminal background check. Each applicant who submits an application to the board for licensure agrees to provide the board with any and all information necessary to run a criminal background check, including but not limited to classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of a background check.

§ 43-11-41. Application for provisional license to practice dentistry by credentials; procedure; criminal background check; expiration and revocation of license

(a) (1) Applicants for a provisional license to practice dentistry by credentials must have received a doctor of dental surgery (D.D.S.) degree or a doctor of dental medicine (D.M.D.) degree from a dental school approved by the board and accredited by the Commission on Dental Accreditation of the American Dental Association (ADA) or its successor agency, if any. Applicants must have been in full-time clinical practice, as defined by rules and regulations established by the board; full-time faculty, as defined by board rule and regulation; or a combination of both for the five years immediately preceding the date of the application and must hold an active dental license in good standing from another state. Those applicants who have received a doctoral degree in dentistry from a dental school not so accredited must comply with the following requirements in order to submit an application for provisional licensure by credentials:

(A) Successful completion at an accredited dental school approved by the board of the last two years of a pre-doctoral program and receipt of the doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) degree; and

(B) Certification by the dean of the accredited dental school where such supplementary program was taken that the candidate has achieved the same level of didactic and clinical competency as expected of a graduate of the school.

(2) The board may establish by rule or regulation the requirements for documentation of an applicant's educational and personal qualifications for provisional licensure.

(3) In order to be granted a provisional license under this Code section, all applicants must have passed a clinical examination given by a state or regional testing agency approved by the board and a jurisprudence examination on the laws of this state and rules and regulations as they relate to the practice of dentistry as established or approved by the board, which shall be administered in the English language.

(4) The board may establish additional licensure requirements by rule and regulation.

(b) All applications to the board for a provisional license by credentials shall be made through the executive director, who shall then submit all such applications to the board. The fee for provisional licensure by credentials shall be paid to the executive director and shall be in an amount established by the board.

(c) Subject to the provisions of subsection (a) of Code Section 43-11-47, an applicant who has met the requirements of this Code section shall be granted a provisional license to practice dentistry, which shall be valid for two years from the date it is issued and may be renewed

subject to the approval of the board.

(d) Application for a provisional license under this Code section shall constitute consent for performance of a criminal background check. Each applicant who submits an application to the board for provisional licensure agrees to provide the board with any and all information necessary to run a criminal background check, including but not limited to classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of a background check.

(e) Upon receipt of license, the applicant by credentials must establish active practice, as defined by rules and regulations of the board, in this state within two years of receiving such license under this Code section or the license shall be automatically revoked.

§ 43-11-42. Reciprocity; criminal background check

(a) The board may issue, in its discretion, without examination, a teacher's or instructor's license to a dental hygienist who has graduated from a school or college approved by the board and accredited by the Commission on Dental Accreditation of the American Dental Association (ADA) or its successor agency, if any, for the sole purpose of teaching or instructing, in an accredited dental hygiene school in this state, those procedures and services recognized in this state to be within the scope of practice of such person's professional license.

(a.1) (1) The board may issue, in its discretion, without examination, a teacher's or instructor's license to a dentist who has graduated from a school, college, or advanced dental education program approved by the board and accredited by the Commission on Dental Accreditation of the American Dental Association (ADA) or its successor agency, if any, for the sole purpose of teaching or instructing, in an accredited dental college, advanced dental education program, or training clinic in this state, those procedures and services recognized in this state to be within the scope of practice of such person's professional license. Those applicants who have received a doctoral degree in dentistry from a dental school not so accredited must comply with the following requirements in order to submit an application for licensure:

(A) (i) Successful completion at an accredited dental school approved by the board of the last two years of a program leading to the doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) degree; or

(ii) Successful completion at an accredited dental school or college approved by the board of at least a two-year advanced education program in one of the dental specialties recognized by the American Dental Association (ADA) or in an advanced dental education program in general dentistry; or

(iii) Successful completion of at least two one-year advanced dental education programs in general dentistry at an accredited dental school or college approved by the board; or

(iv) Successful completion of a one-year program in operative dentistry at a dental school or college approved by the board and a one-year advanced dental education program in general dentistry at an accredited dental school or college approved by the board; and

(B) Certification by the dean of the accredited dental school where such supplementary program was taken that the candidate has achieved the same level of didactic and

clinical competency as expected of a graduate of the school receiving a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) degree.

(2) The board may establish by rule or regulation the requirements for documentation of an applicant's educational and personal qualifications for licensure.

(3) In order to be granted a license under this subsection, all applicants must pass a jurisprudence examination on the laws of this state and rules and regulations as they relate to the practice of dentistry as established or approved by the board, which shall be administered in the English language.

(b) The board may issue, in its discretion, without examination, a license to dentists for the sole purpose of practicing public health dentistry in an official state or a local health department or to render dental services to patients in state operated eleemosynary or correctional institutions, provided that these dentists possess a license in another state, are in good standing in said state, and have graduated from an accredited dental college. Such license shall be considered to be a temporary license which shall be valid for a period to be established by board rule.

(c) The cost of such teacher's, instructor's, or temporary public health license shall be established by the board.

(d) Any license issued or considered for issuance under this Code section shall be subject to the provisions set forth in Code Section 43-11-47.

(e) Application for a license under this Code section shall constitute consent for performance of a criminal background check. Each applicant who submits an application to the board for licensure agrees to provide the board with any and all information necessary to run a criminal background check, including but not limited to classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of a background check.

§ 43-11-43. Fees

Each person applying for examination for a license to practice dentistry shall, at the time of making his or her application, pay to the executive director a fee to be set by the board. Each person applying for the renewal of a license or authority to practice dentistry or for the establishment of a license or authority that has been lost shall, at the time of making his or her application, pay to the executive director a fee to be set by the board. Such fee shall cover the entire service for granting or issuing licenses to practice dentistry.

§ 43-11-44. Discretionary decisions involving treatment of patients

It is a matter of public interest that all decisions involving or affecting the clinical dental treatment of a patient shall be left to the sole discretion of the licensed dentist providing treatment to the patient. The board shall be authorized to promulgate rules and regulations to supplement and ensure compliance with the requirements of this Code section.

§ 43-11-45. Registration certificates

Reserved. Repealed by Ga. L. 1983, p. 1389, § 5, effective March 29, 1983

§ 43-11-45.1. Display of license

Every person licensed under this article shall display such license in a conspicuous place in such person's principal place of business.

§ 43-11-46. Renewal of registration; cardiopulmonary resuscitation qualification

(a) Every person licensed by the board to practice dentistry shall register biennially on the renewal date set by the board and shall pay to the executive director a registration fee which shall be set by the board. The board shall provide for penalty fees for late registration.

(b) The failure to renew a license by the end of an established penalty period shall have the same effect as a revocation of said license, subject to reinstatement only in the discretion of the board. The board may restore and reissue a license to practice dentistry pursuant to this chapter under any terms or conditions that it may deem appropriate.

(c) After 1988, as a prerequisite for license renewal, dentists shall furnish satisfactory evidence of current certification in cardiopulmonary resuscitation as may be defined by rule or regulation of the board.

§ 43-11-46.1. Continuing education requirement; waiver

(a) The board shall be authorized to require persons seeking renewal of a dental license under this chapter to complete board approved continuing education of not less than 40 hours biennially. The board shall be authorized to approve courses offered by institutions of higher learning, specialty societies, or professional organizations and to designate the number of hours required and the category in which those hours should be earned.

(b) The board shall be authorized to waive the continuing education requirement in cases of hardship, disability, or illness or under such other circumstances as the board deems appropriate.

(c) The board shall be authorized to promulgate rules and regulations to implement and ensure compliance with the requirements of this Code section.

(d) This Code section shall apply to each licensing, certification, and renewal cycle which begins after the 1990-1991 renewal.

§ 43-11-47. Refusal to grant, or revocation of, licenses; disciplining licensees; subpoenas; judicial review; investigations; immunity; failure to appear; voluntary surrender

(a) The board shall have the authority to refuse to grant a license to an applicant or to revoke the license of a dentist licensed by the board or to discipline a dentist licensed under this chapter or

any antecedent law upon a finding by a majority of the entire board that the licensee or applicant has:

(1) Failed to demonstrate the qualifications or standards for a license contained in this chapter or in the rules and regulations issued by the board, pursuant to specific statutory authority; it shall be incumbent upon the applicant to demonstrate to the satisfaction of the board that he or she meets all the requirements for the issuance of a license, and, if the board is not satisfied as to the applicant's qualifications, it may deny a license without a prior hearing; provided, however, that the applicant shall be allowed to appear before the board if he or she so desires;

(2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of dentistry or on any document connected therewith; or practiced fraud or deceit or intentionally made any false statement in obtaining a license to practice dentistry; or made a false statement or deceptive annual registration with the board;

(3) Been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States; as used in this subsection, the term "felony" shall include any offense which, if committed in this state, would be deemed a felony without regard to its designation elsewhere; and, as used in this subsection, the term "conviction" shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought. Any licensee who is convicted under the laws of this state, the United States, or any other state, territory, or country of a felony shall be required to notify the board of conviction within ten days of the conviction. The failure to notify the board of a conviction shall be considered grounds for revocation of his or her license;

(4) Been arrested, charged, and sentenced for the commission of any felony, or any crime involving moral turpitude, where:

(A) A plea of nolo contendere was entered to the charge;

(B) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

(C) An adjudication or sentence was otherwise withheld or not entered on the charge.

The plea of nolo contendere or the order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42 or other first offender treatment shall be conclusive evidence of arrest and sentencing for such crime;

(5) Had his or her license to practice dentistry revoked, suspended, or annulled by any lawful licensing dental authority other than the board; or had other disciplinary action taken against him or her by any lawful licensing dental authority other than the board; or was denied a license by any lawful licensing dental authority other than the board, pursuant to disciplinary proceedings; or was refused the renewal of a license by any lawful licensing dental authority other than the board, pursuant to disciplinary proceedings;

(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the licensee or applicant to practice dentistry, or of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of dentistry but shows that the licensee or applicant has committed any act or omission which is indicative of bad moral character or untrustworthiness;

unprofessional conduct shall also include any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing dental practice;

(7) (A) Engaged in the practice of dentistry as an employee of any individual not licensed to practice dentistry in this state or engaged in the practice of dentistry as an officer or employee of any corporation other than one organized and existing pursuant to Chapter 10 of Title 14, "The Georgia Professional Association Act," or Chapter 7 of Title 14, the "Georgia Professional Corporation Act," or engaged in the practice of dentistry as an employee, manager, or member of any limited liability company organized and existing pursuant to Chapter 11 of Title 14 or a limited liability partnership pursuant to Chapter 8 of Title 14 other than one in which all members are licensed dentists and all professional services and professional judgment decisions are delivered by and made by licensed dentists, except as a licensed dentist or an intern or resident of a hospital or teaching institution licensed by this state.

(B) Possession of an ownership interest of a deceased licensed dentist in a limited liability company which is wholly owned by licensed dentists as described in subparagraph (A) of this paragraph shall not constitute a violation of that subparagraph if that interest is transferred to another licensed dentist member or redeemed by the limited liability company within six months after the date of death of that licensed dentist member;

(8) Reserved;

(9) Knowingly performed any act which in any way aids, assists, procures, advises, or encourages any unlicensed person or any licensee whose license has been suspended or revoked by the board to practice dentistry or to practice outside the scope of any disciplinary limitation placed upon the licensee by the board;

(10) Violated a statute, law, or any rule or regulation of this state, any other state, the board, the United States, or any other lawful authority (without regard to whether the violation is criminally punishable), which statute, law, or rule or regulation relates to or in part regulates the practice of dentistry, when the licensee or applicant knows or should know that such action is violative of such statute, law, or rule; or violated a lawful order of the board previously entered by the board in a disciplinary hearing, consent decree, or license reinstatement;

(11) Been adjudged mentally incompetent by a court of competent jurisdiction within or outside this state; any such adjudication shall automatically suspend the license of any such person and shall prevent the reissuance or renewal of any license so suspended for as long as the adjudication of incompetence is in effect;

(12) Displayed an inability to practice dentistry with reasonable skill and safety to patients or has become unable to practice dentistry with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition, or by reason of displaying habitual intoxication, addiction to, or recurrent personal misuse of alcohol, drugs, narcotics, chemicals, or any other type of similar substances. In enforcing this paragraph, the board may, upon reasonable grounds, require a licensee or applicant to submit to a mental or physical examination by physicians designated by the board. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of privilege under a contrary rule of law or statute. Every person who shall accept the privilege of practicing dentistry in this state, or shall file an application for a license to practice dentistry in this state, shall be deemed to have given that person's consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the board upon the grounds that the same constitutes a privileged communication. If a licensee or applicant fails to submit to

such an examination when properly directed to do so by the board, unless such failure is due to circumstances beyond his or her control, the board may enter a final order upon proper notice, hearing, and proof of such refusal. Any licensee or applicant who is prohibited from practicing dentistry under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to the board that such person can resume or begin the practice of dentistry with reasonable skill and safety to patients;

(13) Reserved;

(14) Engaged in the excessive prescribing or administering of drugs or treatment or the use of diagnostic procedures which are detrimental to the patient as determined by the customary practice and standards of the local community of licensees; or knowingly prescribed controlled drug substances or any other medication without a legitimate dental purpose; or knowingly overprescribed controlled drug substances or other medication, in light of the condition of the patient at the time of prescription; or

(15) Knowingly made any fraudulent, misleading, or deceptive statement in any form of advertising or made any statement in any advertisement concerning the quality of the dental services rendered by that dentist or any dentist associated with him or her. For purposes of this paragraph, "advertising" shall include any information communicated in a manner designed to attract public attention to the practice of the licensee.

(b) The provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," with respect to emergency action by the board and summary suspension of a license are adopted and incorporated by reference into this chapter.

(c) For purposes of this Code section, the board may obtain, and is authorized to subpoena, upon reasonable grounds, any and all records relating to the mental or physical condition of a licensee or applicant, and such records shall be admissible in any hearing before the board.

(d) When the board finds that any person is unqualified to be granted a license or finds that any person should be disciplined pursuant to subsection (a) of this Code section, the board may take any one or more of the following actions:

(1) Refuse to grant or renew a license to an applicant;

(2) Administer a public or private reprimand, but a private reprimand shall not be disclosed to any person except the licensee;

(3) Suspend any license for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license;

(4) Limit or restrict any license as the board deems necessary for the protection of the public;

(5) Revoke any license; or

(6) Condition the penalty upon, or withhold formal disposition pending, the applicant's or licensee's submission to such care, counseling, or treatment as the board may direct.

(e) In addition to and in conjunction with the actions described in subsection (d) of this Code section, the board may make a finding adverse to the licensee or applicant but withhold imposition of judgment and penalty; or it may impose the judgment and penalty but suspend enforcement thereof and place the licensee on probation, which probation may be vacated upon noncompliance with such reasonable terms as the board may impose.

(f) Initial judicial review of a final decision of the board shall be had solely in the superior court of the county of domicile of the board.

(g) In its discretion, the board may reinstate a license which has been revoked or issue a license which has been denied or refused, following such procedures as the board may prescribe by rule; and, as a condition thereof, it may impose any disciplinary or corrective method provided in this chapter.

(h) (1) The executive director is vested with the power and authority to make, or cause to be made through employees or agents of the board, such investigations as he or she or the board or any district attorney may deem necessary or proper for the enforcement of the provisions of this chapter. Any person properly conducting an investigation on behalf of the board shall have access to and may examine any writing, document, or other material relating to the fitness of any licensee or applicant. The executive director, the president of the board, or the appointed representative of either may issue subpoenas to compel such access upon a determination that reasonable grounds exist for the belief that a violation of this chapter or any other law relating to the practice of dentistry may have taken place. Upon approval of the board, any person properly conducting an investigation on behalf of the board shall have access to and shall have the right to examine the physical premises of a dental practice.

(2) The results of all investigations initiated by the board shall be reported solely to the board, and the records of such investigations shall be kept for the board by the executive director, with the board retaining the right to have access at any time to such records. No part of any such records shall be released, except to the board, for any purpose other than a hearing before the board, nor shall such records be subject to subpoena; provided, however, that the board shall be authorized to release such records to any law enforcement agency or prosecuting attorney or to another enforcement agency or lawful licensing authority.

(3) All records relating to any patient of a licensee who is the subject of a board inquiry shall be admissible at any hearing held to determine whether a violation of this chapter has taken place, regardless of any statutory privilege; provided, however, that any documentary evidence relating to a patient shall be reviewed in camera and shall not be disclosed to the public.

(4) The board shall have the authority to exclude all persons during its deliberations on disciplinary proceedings and to discuss any disciplinary matter in private with a licensee or applicant and the legal counsel of that licensee or applicant.

(i) A person, firm, corporation, association, authority, or other entity shall be immune from civil and criminal liability for reporting or investigating the acts or omissions of a licensee or applicant which violate the provisions of subsection (a) of this Code section or any other provision of law relating to a licensee's or applicant's fitness to practice as a dentist, dental hygienist, or dental assistant or for initiating or conducting proceedings against such licensee or applicant, if such report is made or action is taken in good faith, without fraud or malice. Any person who testifies or who makes a recommendation to the board in the nature of peer review, in good faith, without fraud or malice, before the board in any proceeding involving the provisions of subsection (a) of this Code section or any other law relating to a licensee's or applicant's fitness to practice as a dentist or a dental hygienist shall be immune from civil and criminal liability for so testifying.

(j) Neither a denial of a license on grounds other than those enumerated in subsection (a) of this Code section nor the issuance of a private reprimand nor the denial of a license by reciprocity nor the denial of a request for reinstatement of a revoked license nor the refusal to issue a previously denied license shall be considered to be a contested case within the meaning of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act"; notice and hearing within the meaning of Chapter 13 of Title 50 shall not be required, but the applicant or licensee shall be allowed to appear before the board if he or she so requests.

(k) If any licensee or applicant fails to appear at any hearing after reasonable notice, the board may proceed to hear the evidence against such licensee or applicant and take action as if such licensee or applicant had been present. A notice of hearing, initial or recommended decision, or final decision of the board in a disciplinary proceeding shall be served upon the licensee or applicant by certified mail or statutory overnight delivery, return receipt requested, to the last known address of record with the board. If such material is returned marked "unclaimed" or "refused" or is otherwise undeliverable and if the licensee or applicant cannot, after diligent effort, be located, the executive director shall be deemed to be the agent for service for such licensee or applicant for purposes of this Code section, and service upon the executive director shall be deemed to be service upon the licensee or applicant.

(l) The voluntary surrender of a license shall have the same effect as a revocation of said license, subject to reinstatement in the discretion of the board.

(m) This Code section shall apply equally to all licensees or applicants whether individuals, partners, or members of any other incorporated or unincorporated associations, limited liability companies, corporations, or other associations of any kind whatsoever.

(n) All subpoenas issued pursuant to the authority granted in this chapter shall be subject to the general rules of law with respect to distance, tender of fees and expenses, and protective orders; provided, further, any motion made with respect thereto shall be made to and passed on by a judge of the superior court of the county of residence of the person to whom the subpoena is directed.

§ 43-11-48. Initiation of proceedings for violation of chapter; records

(a) Proceedings under this chapter may be initiated by the board upon its own motion or upon receipt of a signed, written complaint. A board member who forwards a complaint to the attention of the board shall not participate in any further disciplinary proceedings with respect to such applicant or licensee. Disposition of "contested cases," within the meaning of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," shall be governed by Chapter 13 of Title 50.

(b) A record of all hearings, decisions, and orders shall be kept for the board by the executive director.

§ 43-11-49. Burden of proof as to authority to practice dentistry

On the trial of anyone charged with the violation of this chapter or with the illegal practice of dentistry, it shall be incumbent on the defendant, upon proof that he or she practiced dentistry, to show that he or she had authority under the law to practice dentistry in order to exempt himself or herself from the penalty for such violation.

§ 43-11-50. Practice of dentistry without a license

Any person, firm, partnership, corporation, or other entity who practices dentistry in this state without obtaining a license to practice from the board shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00 or by imprisonment from two to five years, or both.

§ 43-11-51. Practicing dentistry under another's license

Any person, firm, partnership, corporation, or other entity who practices dentistry or performs any dental operation under the protection of another's license shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00 or by imprisonment for not less than two nor more than five years, or both.

§ 43-11-52. Volunteers in dentistry and dental hygiene; special licensing; construction

(a) This Code section shall be known and may be cited as the "Georgia Volunteers in Dentistry and Dental Hygiene Act."

(b) Notwithstanding any other provision of law, the board shall issue a special license to qualifying dentists and dental hygienists under the terms and conditions set forth in this Code section and pursuant to requirements which may be set forth in the rules and regulations of the board. The special license shall only be issued to a person who:

(1) Is retired from the practice of dentistry or dental hygiene and not currently engaged in such practice either full time or part time and has, prior to retirement, maintained full unrestricted licensure in good standing in dentistry or dental hygiene in any state; or

(2) Is currently licensed to practice dentistry or dental hygiene in any licensing jurisdiction in the United States and whose license is unrestricted and in good standing.

As used in this subsection, the term "unrestricted" means that no restrictions have been placed on the applicant's license by any board, no sanctions or disciplinary actions have been imposed by any board on the applicant, and the applicant is not under probation or suspension by any board.

(c) The special licensee shall be permitted to practice dentistry or dental hygiene only in the noncompensated employ of public agencies or institutions, not for profit agencies, not for profit institutions, nonprofit corporations, or not for profit associations which provide dentistry or dental hygiene services only to indigent patients in areas which are underserved by dentists or dental hygienists or critical need population areas of the state, as determined by the board, or pursuant to Article 8 of Chapter 8 of Title 31. The practice of dental hygiene by a dental

hygienist awarded a special license under this Code section shall be governed by Code Section 43-11-74.

(d) The person applying for the special license under this Code section shall submit to the board a notarized statement from the employing agency, institution, corporation, association, or health care program on a form prescribed by the board, whereby he or she agrees unequivocally not to receive compensation for any dentistry or dental hygiene services he or she may render while in possession of the special license.

(e) The examination by the board, any application fees, and all licensure and renewal fees may be waived for the holder of the special license under this Code section.

(f) If, at the time application is made for the special license, the dentist or dental hygienist is not in compliance with the continuing education requirements established by the board for dentists or dental hygienists in this state, the dentist or dental hygienist may be issued a nonrenewable temporary license to practice for six months provided the applicant is otherwise qualified for such license.

(g) (1) Except as provided for in paragraph (2) of this subsection, the liability of persons practicing dentistry or dental hygiene under and in compliance with a special license issued under this Code section and the liability of their employers for such practice shall be governed by Code Section 51-1-29.1.

(2) The liability of persons practicing dentistry or dental hygiene pursuant to Article 8 of Chapter 8 of Title 31 under and in compliance with a special license issued under this Code section shall be governed by the provisions of such article.

(h) This Code section, being in derogation of the common law, shall be strictly construed.

(i) Application for a license under this Code section shall constitute consent for performance of a criminal background check. Each applicant who submits an application to the board for licensure agrees to provide the board with any and all information necessary to run a criminal background check, including but not limited to classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of a background check.

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CHAPTER 11. DENTISTS, DENTAL HYGIENISTS, AND
DENTAL ASSISTANTS
ARTICLE 3. DENTAL HYGIENISTS

§ 43-11-70. Examination requirement; issuance of license; posting license

No person shall practice as a dental hygienist in this state until such person has passed a written and a clinical examination conducted or approved by the board. The fee for such examination shall be paid to the executive director and shall be in an amount established by the board. The

board shall issue licenses and license certificates as dental hygienists to those persons who have passed the examination in a manner satisfactory to the board, and the license certificate shall be posted and displayed in the place in which the hygienist is employed.

§ 43-11-70.1. Temporary license authorized

A person who furnishes the board satisfactory proof of being currently licensed to practice as a dental hygienist in another state and who has applied for, paid the fee for, and been authorized by the board to take the examination required by Code Section 43-11-70 shall be issued a temporary license to practice as a dental hygienist in this state. The temporary license shall be valid from the date of issuance until the results of the first examination scheduled for the applicant are released. If the applicant fails the examination or fails to appear at the examination, the temporary license shall automatically become invalid. No such temporary license shall be issued more than one time nor shall a temporary license be issued to an applicant who has previously failed the examination. If the applicant passes the examination, the temporary license shall remain valid until a license is issued. A temporary license shall be posted and displayed in the place in which the dental hygienist is employed.

§ 43-11-71. Qualifications of applicants for license; criminal background check

(a) No person shall be entitled to or be issued such license as set out in Code Section 43-11-70 unless such person is at least 18 years of age, of good moral character, and a graduate of a dental hygiene program recognized by the board and accredited by the Commission on Dental Accreditation of the American Dental Association (ADA) or its successor agency which is operated by a school or college accredited by an institutional accrediting agency recognized by the United States Department of Education whose curriculum is at least two academic years of courses at the appropriate level and at the completion of which an associate or baccalaureate degree is awarded.

(b) Application for a license under Code Section 43-11-70 shall constitute consent for performance of a criminal background check. Each applicant who submits an application to the board for licensure agrees to provide the board with any and all information necessary to run a criminal background check, including but not limited to classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of a background check.

§ 43-11-71.1. Application for license to practice dental hygiene by credentials; procedure; criminal background check; expiration of license

(a) (1) Applicants for a license to practice dental hygiene by credentials must have received a dental hygiene degree from a dental hygiene school or program accredited by the Commission on Dental Accreditation of the American Dental Association (ADA) or its successor agency, if any, and approved by the board. Applicants must also provide proof of full-time clinical practice, as defined by the board; full-time faculty practice, as defined by the board; or a combination of both for the last two preceding years and hold an active dental hygiene license in good standing from another state.

(2) The board may establish by rule or regulation the requirements for documentation of an applicant's educational and personal qualifications for licensure.

(3) In order to be granted a license under this Code section, all applicants must have passed a clinical examination given by a state or regional testing agency approved by the board and a jurisprudence examination on the laws of this state and rules and regulations as they relate to the practice of dental hygiene as established or approved by the board, which shall be administered in the English language.

(4) The board may establish additional licensure requirements by rule and regulation.

(b) All applications to the board for a license by credentials shall be made through the executive director, who shall then submit all such applications to the board. The fee for licensure by credentials shall be paid to the executive director and shall be in an amount established by the board.

(c) Subject to the provisions of Code Section 43-11-72, an applicant who has met the requirements of this Code section shall be granted a license to practice as a dental hygienist.

(d) Application for a license under this Code section shall constitute consent for performance of a criminal background check. Each applicant who submits an application to the board for licensure agrees to provide the board with any and all information necessary to run a criminal background check, including but not limited to classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of a background check.

(e) Upon receipt of license, the applicant by credentials must establish active practice, as defined by rules and regulations of the board, in this state within two years of receiving such license under this Code section or the license shall be automatically revoked.

§ 43-11-72. Corrective action against licensee

The board shall have the authority to refuse to grant, to revoke, or to discipline the license of any licensed dental hygienist in this state based upon any ground or violation enumerated in Code Section 43-11-47, in the same manner and to the same extent as such Code section applies to licenses of dentists, unless the application of any such provision would not be appropriate to the license of a dental hygienist, in accordance with the sanctions, standards, and procedures set forth in that Code section, or for violation of Code Section 43-11-74 or any other law or rule relating to the practice of dental hygiene, in accordance with the sanctions, standards, and procedures set forth in Code Section 43-11-47.

§ 43-11-73. Renewal; cardiopulmonary resuscitation qualification

(a) Every person licensed by the board to practice dental hygiene shall register biennially on the renewal date set by the executive director and shall pay to the executive director a registration fee which shall be set by the board. The board shall provide for penalty fees for late registration.

(b) The failure to renew a license by the end of an established penalty period shall have the same effect as a revocation of said license, subject to reinstatement only in the discretion of the board.

The board may restore and reissue a license to practice dental hygiene pursuant to this chapter under any terms or conditions that it may deem appropriate.

(c) After 1988, as a prerequisite for license renewal, dental hygienists shall furnish satisfactory evidence of current certification in cardiopulmonary resuscitation, as may be defined by rule or regulation of the board.

§ 43-11-73.1. Continuing education requirement; waiver; rules and regulations

(a) The board shall be authorized to require persons seeking renewal of a dental hygienist license to complete board approved continuing education of not less than 22 hours biennially. The board shall be authorized to approve courses offered by institutions of higher learning and professional organizations. At least 15 hours of continuing education in each renewal cycle shall be scientifically based.

(b) The board shall be authorized to waive the continuing education requirements in cases of hardship, disability, or illness or under such other circumstances as the board deems appropriate.

(c) The board shall be authorized to promulgate rules and regulations to implement and ensure compliance with the requirements of this Code section.

(d) This Code section shall apply to each licensing, certification, and renewal cycle which begins after the 1990-1991 renewal.

§ 43-11-74. Direct supervision required; scope of duties; exceptions to required supervision for dental screenings

(a) Dental hygienists shall perform their duties only under the direct supervision of a licensed dentist. No dental hygienist shall diagnose, prescribe, determine the initial dosage, or increase the initial dosage of nitrous oxide, practice dentistry or do any kind of dental work other than to remove calcareous deposits, secretions, and stains from the surfaces of the teeth, to apply ordinary wash or washes of a soothing character, and to perform those acts, services, procedures, and practices which the board shall prescribe by rule or regulation. The board shall not delegate to dental hygienists the authority to administer local anesthesia, except that this restriction shall automatically expire July 1, 1992.

(b) After meeting such additional education and training requirements as the board may require by rule or regulation, a dental hygienist may perform such other acts, practices, services, or procedures under the direct supervision of a licensed dentist, which the board may prescribe by rule or regulation subject, however, to the limitations set forth in subsection (a) of this Code section.

(c) The requirement of direct supervision shall not apply to the educational training of dental hygiene students at an institution approved by the board and the Commission on Dental Accreditation of the American Dental Association, or its successor agency, when such instruction is carried out under such degree of supervision by a licensed dentist as the board may

prescribe by rule or regulation.

(d) The requirement of direct supervision shall not apply to the performance of dental hygiene duties at approved dental facilities of the Department of Public Health, county boards of health, or the Department of Corrections. The board shall provide by rule or regulation for criteria for approval of such facilities and for the appropriate degree of supervision by a licensed dentist over dental hygienists performing duties in such facilities.

(e) (1) As used in this subsection, the term "dental screening" means a visual assessment of the oral cavity without the use of X-rays, laboratory tests, or diagnostic models to determine if it appears that a more thorough examination and diagnosis should be conducted by a dentist.

(2) The requirement of direct supervision shall not apply to the performance of dental hygienists providing dental screenings in settings which include schools, hospitals, and clinics and state, county, local, and federal public health programs. Other health fair settings must be preapproved by the board.

(3) Each person who receives a dental screening pursuant to this subsection, or the parent or legal guardian if the person is a minor, must be informed in writing of the purpose and limitations of a dental screening and advised to seek a more thorough examination by a dentist to determine whether or not problems exist that might not be discovered in a screening. There shall be no fees charged for providing a dental screening pursuant to this subsection except for dental screenings provided by employees of the Department of Public Health or county boards of health. These fees must be paid directly to that department or county board of health and not to the individual who performs the dental screening.

§ 43-11-75. Applicability of article

This article shall not apply to licensed dentists, nor shall this article apply to physicians licensed in this state in extracting teeth or performing surgical operations and in charging therefor or to accredited schools of dentistry.

§ 43-11-76. Unlicensed practice of dental hygiene

Any person who engages in the practice of dental hygiene without first having obtained a license therefor shall be guilty of a misdemeanor.

TITLE 43. PROFESSIONS AND BUSINESSES

CHAPTER 11. DENTISTS, DENTAL HYGIENISTS, AND DENTAL ASSISTANTS

ARTICLE 4. DENTAL ASSISTANTS

§ 43-11-80. Acts, services, practices, and procedures authorized

(a) A dental assistant is one, other than a licensed dentist or licensed dental hygienist, who is employed to assist a licensed dentist by performing those acts, services, practices, and procedures as may be prescribed by rule or regulation of the board.

(b) After meeting such additional education and training requirements as the board may require by rule or regulation, a dental assistant may perform such other acts, practices, services, or procedures, under the direct supervision of a licensed dentist, which the board may prescribe by rule or regulation.

§ 43-11-81. Direct supervision required

Dental assistants shall perform their duties only under the direct, personal supervision of a licensed dentist. No dental assistant shall practice dentistry, dental hygiene, or do any kind of dental work other than those acts, services, procedures, and practices prescribed by rule or regulation of the board.

§ 43-11-82. Exceptions to application of article

This article shall not apply to licensed dentists or dental hygienists, nor shall this article apply to physicians licensed in this state in extracting teeth or performing surgical operations and in charging therefor or to accredited schools of dentistry.