

CHAPTER 131

(HB 776)

AN ACT relating to health care services and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 313.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Board" means the Kentucky Board of Dentistry;
- (2) "Certified dental technician" means an individual recognized as such by the National Board for Certification in Dental Laboratory Technology;
- (3) "Delegated duties list" means the list of procedures authorized in administrative regulation which may be delegated by a dentist licensed under this chapter to a licensed dental hygienist or a registered dental assistant;
- (4) "Dental auxiliary personnel" means any staff member of a dental office not licensed by or registered with the board;
- (5) "Dental hygiene" means the treatment of the oral cavity, including but not limited to dental hygiene assessment or screening, scaling and root planing, nonsurgical therapy, removing calcareous deposits, removing accumulated accretion from beneath the free gingival margin, cavity preventive procedures, *and* periodontal procedures that require administering antimicrobial agents along with other general dentistry activities outlined in the treatment care plan and not prohibited by this chapter or by administrative regulation promulgated by the board;
- (6) "Dental hygienist" means any person who *is licensed to practice dental hygiene under this chapter*~~has graduated from a CODA-accredited dental hygiene program at an institute of higher learning and has been credentialed as a "Registered Dental Hygienist"~~;
- (7) "Dental laboratory" includes any person, firm, or corporation other than a licensed dentist, who directly or through an agent or employee, by any means or method, in any way supplies or manufactures artificial substitutes for the natural teeth, other than those unfinished substitutes normally available through dental supply houses, or who furnishes supplies, constructs, or reproduces or repairs any prosthetic denture, bridge, or appliance to be worn in the human mouth, or who performs or offers or undertakes to perform or accomplish dental laboratory technology;
- (8) "Dental laboratory technician" means any person who performs or offers or undertakes to perform or accomplish dental laboratory technology;
- (9) "Dental specialist" means a dentist who *is licensed to practice in a dental specialty field under this chapter*~~practices in fields of specialty recognized and approved by the American Dental Association~~;
- (10) "Dentist" means any person who *is licensed to practice dentistry under this chapter*~~has graduated from a Commission on Dental Accreditation (CODA)-accredited dental school and has been conferred with the degree of "Doctor of Medical Dentistry" (D.M.D.) or "Doctor of Dental Surgery" (D.D.S.)~~;
- (11) (a) "Dentistry" means the evaluation, diagnosis, prevention, or surgical, nonsurgical, or related treatment of diseases, disorders, or conditions of the oral cavity, maxillofacial area, or the adjacent and associated structures and their impact on the human body provided by a dentist within the scope of his or her education, training, and experience and in accordance with the ethics of the profession and applicable law.
 - (b) Any person shall be regarded as "practicing dentistry" who, for a fee, salary, or other reward paid, or to be paid either to himself or herself~~;~~ or to another person:~~;~~
 1. Performs or advertises to perform, dental operations of any kind, including the whitening of natural or manufactured teeth;~~;~~ ~~or who~~
 2. Diagnoses or treats diseases or lesions of human teeth or jaws, or attempts to correct malpositions thereof;~~;~~ ~~or who~~

3. Diagnoses or treats disorders, or deficiencies of the oral cavity and adjacent associated structures;~~[- or who -]~~
 4. Takes impressions of the human teeth or jaws to be used directly in the fabrication of any intraoral appliance;~~[- or shall construct, supply, reproduce or repair -]~~
 5. **Constructs, supplies, reproduces, or repairs** any prosthetic denture, bridge, artificial restoration, appliance or other structure to be used or worn as a substitute for natural teeth, except upon the written laboratory procedure work order of a licensed dentist and constructed upon or by the use of casts or models made from an impression taken by a licensed dentist;~~[- or who shall advertise, offer, sell, or deliver -]~~
 6. **Advertises, offers, sells, or delivers** any such substitute or the services rendered in the construction, reproduction, supply, or repair thereof to any person other than a licensed dentist;~~[- or who -]~~
 7. Places or adjusts such substitute in the oral cavity of another; **and**~~[- or who -]~~
 8. Uses the words "dentist," "dental surgeon," the letters "D.D.S.," "D.M.D.," or other letters or title in connection with his or her name, which in any way represents him or her as being engaged in the practice of dentistry;
- (12) "Direct supervision" means that the dentist is physically present in the dental office or treatment facility, personally diagnoses the condition to be treated, authorizes the procedures to be performed, remains in the dental office or treatment facility while the procedures are being performed, and evaluates the performance of the individual supervised;
- (13) "General supervision" means a circumstance of treatment in which a dentist licensed under this chapter must diagnose and authorize the work to be performed on a patient by the dental hygienist authorized pursuant to administrative regulation to work under general supervision but the dentist is not required to be on the premises while the treatment is carried out;
- (14) "Registered dental assistant" means any person who is registered with the board and works under the direct supervision of a dentist;
- (15) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education; and
- (16) "Volunteer community health setting" means a setting in which services are rendered at no charge to the patient or to third-party payors.

➔Section 2. KRS 313.020 is amended to read as follows:

- (1) The Kentucky Board of Dentistry shall consist of ten (10) **voting** members, each appointed by the Governor to a four (4) year term, **and additional nonvoting ex officio members selected by their respective organizations as follows:**~~[-]~~
 - (a) Seven (7) **voting** members of the board shall be licensed dentists, **at least three (3) of whom shall be general dentists. Each shall be** appointed from a list of three (3) names recommended for each board position by the resident licensed dentists of Kentucky at an annual election at a time selected by the Kentucky Board of Dentistry;~~[-]~~
 - (b) Two (2) **voting** members of the board shall be dental hygienists licensed to practice dental hygiene in the Commonwealth. Each~~[- appointment to the board of a licensed dental hygienist -]~~ shall be~~[- made -]~~ from a list of three (3) names recommended for this position by the resident licensed dental hygienists of Kentucky at an annual election at a time selected by the board;~~[-]~~
 - (c) One (1) **voting** member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated;~~[-]~~
 - (d) One (1) nonvoting ex officio representative from each **dental school program in Kentucky that is accredited by the Commission on Dental Accreditation (CODA)**~~[- the University of Kentucky and the University of Louisville -]~~ shall represent the dental schools' interests;~~[-]~~
 - (e) **Two (2)**~~[- One (1) -]~~ nonvoting ex officio **representatives**~~[- representative -]~~ from **the**~~[- a -]~~ **dental hygiene degree programs in Kentucky that are accredited by CODA and that are**~~[- program -]~~ not associated with

~~a dental school~~~~[the University of Kentucky or the University of Louisville]~~ shall represent the dental hygiene programs' interests. The *dental* hygiene school seats shall rotate on a *staggered, biennial*~~[yearly]~~ basis; ~~and~~~~[]~~

- (f) One (1) nonvoting ex officio representative from the Department for Public Health shall represent the department's interests.
- (2) Individuals seeking board appointment *as a voting member*, other than the citizen member, shall have been an actual resident and *a* licensed practicing dentist or dental hygienist of the Commonwealth for not less than five (5) years immediately preceding his or her appointment to the board, be in good standing with the board, and shall not have been disciplined by the board in the past eight (8) years. A voting member shall not receive compensation from or have a financial interest in any dental college or dental department of any institution of learning, dental supply business, or any entity over which the board has regulatory authority or *for which it* sets standards~~[for]~~. For this subsection alone, a private admonishment shall not count as discipline.
- (3) ~~A~~~~No~~ board member shall *not* serve more than two (2) consecutive terms. A member appointed to a partial term vacancy exceeding two (2) years shall be deemed to have served one (1) full term. A former member may be reappointed following an absence of one (1) term.
- (4) The board shall annually:
- (a) Meet at least four (4) times a year;
 - (b) At the first meeting of the board after July 1, elect officers of the board by majority vote of the members present; and
 - (c) Set a schedule of at least four (4) regular meetings for the next twelve (12) month period.
- (5) A majority of the voting members of the board shall constitute a quorum for the transaction of business.
- (6)
 - (a) A member of the board who misses three (3) regular meetings in one (1) year shall be deemed to have resigned from the board, and his or her position shall be deemed vacant.
 - (b) The failure of a board member to attend a special or emergency meeting shall not result in any penalty.
 - (c) The year specified in paragraph (a) of this subsection shall begin with the first meeting missed and end three hundred sixty-five (365) days later or with the third meeting missed, whichever occurs earlier.
 - (d) The Governor shall appoint a person of the same class to fill the vacancy within ninety (90) days.
 - (e) A person removed under this subsection shall not be reappointed to the board for four (4) years.
- (7) Each voting member of the board shall receive any necessary expenses incurred in attending its meetings. Each voting member shall receive as compensation two hundred dollars (\$200) for each day actually engaged in the duties of his or her office.
- (8) Annual reports and recommendations from the board shall be sent by February 1 each year to the Governor and the General Assembly.

➔Section 3. KRS 313.021 is amended to read as follows:

- (1) The board shall:
- (a) Exercise all of the administrative functions of the Commonwealth in the regulation of the profession of dentistry, including but not limited to dentists, dental hygienists, dental assistants, and dental laboratories;
 - (b) Subject to the provisions of this chapter, create levels of licensure or registration as appropriate for individuals providing services under this chapter. These shall consist of:
 1. Dentist;
 2. Dental hygienist; and
 3. Dental assistant;
 - (c) ~~[The board shall]~~Promulgate administrative regulations in accordance with KRS Chapter 13A for any license or registration the board may create. The administrative regulations shall, at a minimum, address:

1. Requirements for students, if appropriate;
 2. Requirements for education;
 3. Eligibility for licensure or registration; and
 4. Renewal requirements;
- (d) Oversee the operations and establish the organizational structure of the Office of the Kentucky Board of Dentistry, which is created and shall be attached to the board for administrative purposes. The office shall be headed by the executive director appointed under paragraph (e) of this subsection and shall be responsible for:
1. Personnel and budget matters affecting the board;
 2. Fiscal activities of the board, including grant writing and disbursement of funds;
 3. Information technology, including the design and maintenance of databases;
 4. Licensure of dentists and dental hygienists;
 5. Registration of dental assistants;
 6. Investigation of complaints; and
 7. Other responsibilities which may be assigned to the executive director by the board;
- (e) Employ an executive director and fix his or her compensation. The executive director shall serve at the pleasure of the board, administer the day-to-day operations of the Office of the Kentucky Board of Dentistry, and supervise all directives of the board. The executive director shall possess a baccalaureate degree and shall have no less than five (5) years of experience in public administration;
- (f) Employ or contract with an attorney licensed to practice law in Kentucky and fix his or her compensation. The attorney shall serve at the pleasure of the board and have primary assignment to the board;
- (g) Employ or contract with personnel sufficient to carry out the statutory responsibilities of the board;
- (h) Establish committees and subcommittees and the membership thereof. Members of committees and subcommittees shall not need to be members of the board;
- (i) Provide for affiliation with the American Association of Dental Boards *and all testing organizations that administer qualifying examinations for licensure required under this chapter*;
- (j) Select the subject matter and standards of proficiency for examinations related to issuance of licenses or registrations issued under this chapter or administrative regulations promulgated hereunder; and
- (k) Have the authority to issue advisory opinions and declaratory rulings related to this chapter and the administrative regulations promulgated thereunder as established by administrative regulation.
- (2) The board may utilize materials, services, or facilities as may be made available to it by other state agencies or may contract for materials, services, or facilities.
- (3) The board shall develop a proposed biennial budget for all administrative and operational functions and duties.
- (4) ***The board shall purchase liability insurance for board and staff members against acts performed in the good faith discharge of duties.***

➔Section 4. KRS 313.022 is amended to read as follows:

- (1) The board shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, prescribe a schedule of reasonable fees, charges, and fines not to exceed the national average of other state dental boards for:
- (a) Examination;
 - (b) Issuance, renewal, and reinstatement of licenses;
 - (c) Issuance, renewal, and reinstatement of registrations;
 - (d) Inspections and reinspections;
 - (e) Applications;

- (f) Other services and materials provided by the board;
 - (g) Investigations;
 - (h) Administrative legal costs; and
 - (i) Fines for infractions.
- (2) All fees, charges, or other moneys collected or received by the board shall be paid into the State Treasury and credited to a trust and agency fund which, notwithstanding KRS 45.229, shall not lapse, to be used by the board for the carrying out of the provisions of this chapter.
 - (3) All disbursements by the board in the transactions of its business and in the enforcement of the provisions of this chapter shall be paid out of ~~the trust~~ trust and agency account as claims against the state in accordance with the provisions of KRS Chapters 45 and 45A.
 - (4) ***The board may designate funds from the trust and agency account to administer scholarships or education loan repayment assistance to individuals who meet the criteria established in an administrative regulation promulgated by the board in accordance with KRS Chapter 13A.***
 - (5) The board may establish a petty cash fund not to exceed one thousand dollars (\$1,000) for the purpose of making disbursements requiring prompt cash outlay~~+~~ and to carry out the provisions of KRS 45A.045 applying to the delegation of authority to purchase.

➔Section 5. KRS 313.030 is amended to read as follows:

- (1) The license or registration held by a dentist, dental hygienist, or dental assistant shall be valid for a period of two (2) years.
- (2) Each license or registration held by a dentist, dental hygienist, or dental assistant shall expire on December 31. A dentist's license shall expire in odd-numbered years, while all other licenses or registrations issued by the board shall expire in even-numbered years.
- (3) Each license or registration held by any person issued under the provisions of this chapter shall be renewed at least biennially. Upon receipt of the application and fee, the board shall verify the accuracy of the application to determine whether the licensee or person seeking licensure or registration has met all the requirements as set forth in this chapter and in the administrative regulations promulgated by the board, and, if so, shall issue to the applicant a license or registration to practice or engage in the activity for the ensuing licensure or registration period. Such license or registration shall render the holder a legal practitioner of the practice or activity specified in the license or registration for the period stated on it. The board shall prescribe by administrative regulation promulgated in accordance with KRS Chapter 13A the beginning and ending of the licensure or registration period.
- (4) Any person who is licensed or registered by the board who allows his or her license or registration to lapse by failing to renew the license or registration as provided in this section may be reinstated by the board on payment of the current fee for original licensure or registration in addition to any late fees and by meeting the requirements of administrative regulations promulgated by the board.
- (5) An application for renewal of a license or registration shall be completed online or, if a written request is made to the board prior to November 1 of the year of expiration, a paper application shall be sent to the last known address of each licensee or certified or registered person requesting a paper application.
- (6) Any person engaging in any practice or activity regulated by the board during the time his or her license or registration has lapsed shall be considered practicing with an expired license or registration and shall be subject to the penalties provided for violations of this chapter.
- (7) Failure to receive the application for renewal of a license or registration shall not relieve a dentist, dental hygienist, or dental assistant from the duty to renew his or her license or registration prior to December 31 of the year in which the license or registration expires.
- (8) The duration of any license or registration issued by the board may be limited by disciplinary action of the board.
- (9) Every license or registration issued by the board shall have the seal of the board affixed. A holder of a license or registration shall retain it in his or her possession and be prepared to exhibit it upon demand by an employer or anyone to whom the holder of the license or registration offers treatment or any board ***member*** or staff

member of the ~~[Kentucky]~~ board ~~[of Dentistry]~~. Each license or registration issued by the board shall be posted in a conspicuous place in each place of employment of the dentist, dental hygienist, or dental assistant.

- (10) Failure or refusal to produce a license or registration upon demand shall be prima facie evidence that no such license or registration exists.†
- ~~(11) In order to ensure a proper transition during the implementation of the provisions of this section, the board may, for a period of no longer than three (3) years, extend a license or registration of any person in order to utilize the expiration date provided for in this section. The board shall, in writing, notify each person whose license or registration is extended of the extension and the new date of expiration. The extension shall be without charge.†~~

➔Section 6. KRS 313.035 is amended to read as follows:

- (1) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A relating to dentists. The administrative regulations shall include the classification of and licensure of dentists, by examination or credentials, the licensure of specialists, student limited licenses, faculty limited licenses, reciprocity, retirement of a license, reinstatement of a license, charity licenses, and ~~[conscious]~~ sedation and anesthesia permits.
- (2) Renewal programs shall be organized to include continuing education approved by the board.
- (3) For the purposes of licensure of specialists, the board shall only recognize fields of specialty duly recognized and approved by the *National Commission on Recognition of Dental Specialties and Certifying Boards*~~[American Dental Association]~~. Individuals licensed as specialists shall not practice outside of that specialty except:
 - (a) *Upon documented referral by a general dentist to perform a procedure within the specialist's scope of training; or*
 - (b) As provided for in charitable dentistry as defined by administrative regulation, during a declared disaster by order of the Governor, or when the special needs of the patient require they be followed past the age of eighteen (18) by a pediatric dentist.
- (4) ~~A~~~~No~~ person licensed under this chapter, who in good faith renders emergency care at the scene of an emergency, shall **not** be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care.
- (5) Any dentist who serves on any committee, board, commission, or other entity which is duly constituted by any licensed hospital, dental society or association affiliated with the American Dental Association, dental care foundation affiliated with such dental society or association or governmental or quasi-governmental agency for the purpose of reviewing and evaluating the dental acts of other dentists, or dental auxiliary personnel, shall not be required to respond in damages for any action taken by him or her in good faith as a member of such committee, board, commission, or other entity.
- (6) Licensed dentists may prescribe any drug necessary within the scope of their practice.
- (7) Dentists may sign death certificates the same as physicians, when necessary in the line of their profession.
- (8) ~~[Nothing in]~~ This chapter shall **not** apply to a legally licensed doctor of medicine unless he or she practices dentistry as a specialty.
- (9) ~~[Nothing in]~~ This chapter shall **not** apply to a practitioner of dentistry duly licensed *in the United States*~~[by another state or the District of Columbia]~~ while making a clinical demonstration before a dental society, convention, association of dentists, or a dental school.

➔Section 7. KRS 313.040 is amended to read as follows:

- (1) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A relating to dental hygienists. The administrative regulations ~~shall~~~~may~~ include at a minimum the classification of and licensure of dental hygienists, by examination or credentials, general supervision privileges, anesthesia registration, retirement of a license, reinstatement of a license, and charity licenses.
- (2) Renewal programs shall be organized to include continuing education approved by the board.
- (3) A licensed dental hygienist shall practice under the supervision, order, control, and full responsibility of a dentist licensed under this chapter and may practice:

- (a) In a dental office, public or private school, health care facility, or government institution with a dentist on staff;
 - (b) Without the physical presence of a supervising dentist as provided in administrative regulations promulgated pursuant to subsections (6), (7), ~~and (8)~~, **and (9)** of this section; or
 - (c) Without a supervising dentist if providing screening services in accordance with subsection ~~(10)~~~~(9)~~ of this section.
- (4) It shall be unlawful for a person or ~~entity~~~~corporation~~ to practice dental hygiene in a manner that is separate or independent from the dental practice of a supervising dentist or to establish or maintain an office or practice that is primarily devoted to the provision of dental hygiene services.
- (5) A dental hygienist may be employed by the supervising dentist or under contract with a dentist licensed under this chapter who is one (1) of the following:
- (a) The employer of the supervising dentist;
 - (b) A shareholder in a professional association formed under KRS ~~Chapter 274~~~~[274.015]~~ of which the supervising dentist is a shareholder;
 - (c) A member or manager of a limited liability company formed under ~~Chapter 275~~~~[KRS 275.005]~~ of which the supervising dentist is a member or manager;
 - (d) A shareholder in a corporation formed under KRS Chapter 271B of which the supervising dentist is a shareholder;
 - (e) A partner or employee of a partnership of which the supervising dentist is a partner or employee; or
 - (f) A government entity that employs the dental hygienist to provide dental hygiene services in a public school in connection with other programs the government entity administers.
- (6) A dental hygienist may provide the following procedures in a volunteer community health setting without the supervision of a dentist:
- (a) Dental health education;
 - (b) Nutritional counseling;
 - (c) Preparing a generalized oral screening with subsequent referral to a dentist;
 - (d) Applying fluoride on patients;
 - (e) Demonstration of oral hygiene technique; and
 - (f) Sealants.
- (7) (a) A dental hygienist may provide, for not more than fifteen (15) consecutive full business days, dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if all the following requirements are met:
1. The dental hygienist has at least ~~two (2) years with a minimum of~~ three thousand (3,000) hours of **work** experience in the practice of dental hygiene;
 2. The dental hygienist has successfully completed a course approved by the board in the identification and prevention of potential medical emergencies with reregistration in this course every two (2) years;
 3. The dental hygienist complies with written protocols for emergencies the supervising dentist establishes;
 4. The dental hygienist does not examine or provide dental health services to a patient who has not been examined by the supervising dentist within the previous ~~seven (7)~~ **eleven (11)** months. The supervising dentist shall have completed and evaluated a medical and dental history of the patient and shall have placed a written order for treatment in the patient's file. The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to determine guidelines for the written order; and

5. A patient is notified in advance of an appointment for dental hygiene services when the supervising dentist will be absent from the location. The patient shall be required to sign an informed consent form, prior to treatment by the hygienist, acknowledging the dentist's absence.
- (b) The board shall promulgate administrative regulations to determine procedures the dental hygienist shall not be allowed to perform while the supervising dentist is absent from the work site.
- (8) A dental hygienist licensed by the board may practice as a public health hygienist and may provide dental hygiene services if:
 - (a) The services are provided as part of a dental health program;
 - (b) The program for which the hygienist works is operated through the Department for Public Health or a governing board of health; and
 - (c) The hygienist performs only accepted standardized protocols which are contained within the scope of practice of dental hygiene and which are reviewed and approved by the Board of Dentistry and either the Department for Public Health or the dentist member of the governing board of health, as set out in administrative regulation.
- (9) ***A dental hygienist licensed by the board may make radiographs upon written order of the supervising dentist without the dentist being physically present.***
- (10) A dental hygienist may provide screening services in any setting without the supervision of a dentist if:
 - (a) The screening is conducted to fulfill the requirements of KRS 156.160(1)(j); and
 - (b) Patients are informed that the service being provided is a screening and that only a dentist is licensed to make a definitive diagnosis of the need for dental care.

➔Section 8. KRS 313.045 is amended to read as follows:

- (1) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to define registration requirements, duties, training, and standards of practice that may be performed by a dental assistant who has a minimum of one (1) year of dental office experience.
- (2) The board shall approve the instructor and the courses of study for approving duties, training, and standards of practice that may be performed by a registered dental assistant.
- (3) A registered dental assistant shall practice under the supervision, order, control, and full responsibility of a dentist licensed under this chapter.
- (4) ~~A~~~~The~~ registration ***issued to a***~~for each~~ registered dental assistant shall be continuously displayed in a conspicuous place in the office of the licensee.
- (5) Supervising dentists shall only assign to registered dental assistants procedures that do not require the professional competence of a licensed dentist or a licensed dental hygienist.
- (6) Registered dental assistant services may include coronal polishing, a cosmetic procedure that is not essential to therapeutic oral prophylaxis, if the following criteria are observed:
 - (a) Polishing activities are limited to the use of a rubber cap attached to a slow-speed rotary dental handpiece ***or dental hygiene cordless polisher***;
 - (b) The assistant has received a certificate from the board's approved instructor that ensures the assistant has successfully completed a dental assisting course developed by the board and a committee of dental educators from the Kentucky institutions of dental education accredited by the ***Commission***~~Council~~ on Dental Accreditation; and
 - (c) The dental assisting course includes basic dental assisting and coronal polishing instruction that includes didactic, preclinical, clinical training, and competency testing.
- (7) Registered dental assistant services shall not include the following:
 - (a) ~~{The practice of dental hygiene or the performance of the duties of a licensed dental hygienist that require the use of any instrumentation which may elicit the removal of calcareous deposits or accretions on the crowns and roots of teeth;~~
 - ~~(b) — }Diagnosis;~~

- (b)~~(c)~~ Treatment planning and prescription, including prescriptions for drugs or medicaments, or authorization for restorative, prosthodontic, or orthodontic appliances; **and**
- (c)~~(d)~~ Surgical procedures on hard or soft tissues of the oral cavity, or any other **intraoral**~~intraoral~~ procedure that contributes to or results in an irreversible alteration of the oral anatomy ~~and~~
- ~~(e) The making of final impressions from which casts are made to construct any dental restoration.~~

- (8) A licensed dentist may delegate the taking of radiographs to registered dental assistants who have completed ~~a~~ board-approved **training**~~course~~ in radiography technique and safety. The course completion certificate shall be maintained by the supervising dentist and be made available to the board upon request.

➔Section 9. KRS 313.050 is amended to read as follows:

- (1) A licensed dentist may delegate to competent dental auxiliary personnel those procedures for which the dentist exercises direct supervision and full responsibility as long as the delegated powers do not include any of the following:
- Those procedures which require professional judgment and skill, such as diagnosis and treatment planning and the cutting of hard or soft tissues or any intraoral procedure which will be used directly in the fabrication of an appliance which, when worn by the patient, would come in direct contact with hard or soft tissue;
 - Those procedures allocated by this chapter to licensed dental hygienists or registered dental assistants; and
 - The administration of**~~No~~ injectable medication or anesthesia ~~shall be administered~~ by auxiliary personnel unless otherwise authorized by law.
- (2) A licensed dentist may delegate the taking of radiographs to dental auxiliary personnel who have completed ~~a~~ board-approved **training**~~course~~ in radiography technique and safety. The course completion certificate shall be maintained by the supervising dentist and be available to the board upon request.

➔Section 10. KRS 313.060 is amended to read as follows:

- The board shall promulgate administrative regulations in accordance with KRS Chapter 13A relating to dental practices which shall include minimal requirements for documentation, Centers for Disease Control compliance, ~~conscious~~ sedation of patients, compliance with federal controlled substances regulations, and any applicable federal statute or regulation.
- Any person practicing or offering to practice dentistry or dental surgery shall practice under his or her own name or the name of a deceased or incapacitated dentist for whom the person practicing dentistry has contracted to perform continuing operations.
- ~~A~~~~No~~ person shall **not** conduct a dental office in his or her name ~~or~~~~nor~~ advertise his or her name in connection with any dental office unless he or she personally performs services as a dentist or dental surgeon in ~~the~~~~such~~ office or personally supervises ~~the~~~~such~~ services as are performed in ~~the~~~~such~~ office during a portion of the time ~~the~~~~such~~ office is operated by him or her only, and shall not use his or her name in connection with that of any other dentist, except as provided for deceased or incapacitated dentists in subsection (4) of this section.
- The executor or administrator of a deceased dentist's estate, or the legal guardian or authorized representative of a dentist who has become incapacitated, may contract with another dentist or dentists to continue the operations of the deceased or incapacitated dentist's practice if the practice of the deceased or incapacitated dentist is a:
 - Sole proprietorship;
 - Corporation in which the deceased or incapacitated dentist is the sole shareholder; or
 - Limited liability company in which the deceased or incapacitated dentist is the sole member.
- Contracts to continue the operations of a deceased or incapacitated dentist's practice may extend until the practice is sold.
- Prior to contracting with another dentist or dentists to continue operations of a deceased or incapacitated dentist's practice, the executor, administrator, guardian, or authorized representative shall file a notification of

intent to contract for continuation of practice with the board on a form prescribed by the board. The notification shall include the following information:

- (a) The name and license number of the deceased or incapacitated dentist;
 - (b) The name and address of the dental practice;
 - (c) The name, address, and tax identification number of the estate;
 - (d) The name and license number of each dentist who will provide services in the dental practice;
 - (e) An affirmation, under penalty of perjury, that the information provided is true and correct and that the executor, administrator, guardian, or authorized representative understands that any interference by the executor, administrator, guardian, or authorized representative, or any agent or assignee of the executor, administrator, guardian, or authorized representative, with the contracting dentist's or dentists' practice of dentistry or professional judgment or any other violation of this chapter is grounds for an immediate termination of the operations of the dental practice; and
 - (f) Any other information the board deems necessary for the administration of this chapter.
- (7) Within thirty (30) days after the death or incapacitation of a dentist, the executor, administrator, guardian, or authorized representative shall send notification of the death or incapacitation by mail to the last known address of each patient of record that has received treatment by the deceased or incapacitated dentist within the previous twelve (12) months, with an explanation of how copies of the practitioner's records may be obtained. This notice may also contain any other relevant information concerning the continuation of dental practice.
- (8) A treating dentist who provides or facilitates the use of telehealth shall ensure:
- (a) That the informed consent of the patient~~[,] or *legal representative* [another appropriate person with authority to make the health care treatment decision for the patient,]~~ is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conform to applicable federal law.
- (9) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of dental services and in the provision of continuing education.
- (10) A licensed dentist may delegate to a licensed dental hygienist the administration of block and infiltration anesthesia and nitrous oxide analgesia under the direct supervision of a dentist if the dental hygienist completes the following requirements and receives a certificate of verification from the board:
- (a) Formal training from a dental or dental hygiene school accredited by the Commission on Dental Accreditation;
 - (b) A minimum of thirty-two (32) hours covering all of the following topics, including but not limited to anatomical considerations, basic injection technique, basic placement technique, nitrous oxide administration, recordkeeping, armamentarium exercise, local anesthesia and nitrous oxide, techniques of maxillary anesthesia, techniques of mandibular injections, partner injections and partner administration of nitrous oxide, neurophysiology, pharmacology of local anesthetics and nitrous oxide, pharmacology of vasoconstrictors, physical and psychological evaluation, local and systemic complications, and contraindications;
 - (c) A minimum of two (2) hours of clinical education for nitrous oxide administration with successful completion of administration, monitoring, and removal of nitrous oxide on at least two (2) patients;
 - (d) A minimum of twelve (12) hours demonstrating mastery of local anesthesia applications and successful completion of at least three (3) injections each of all maxillary and mandibular injection sites; and
 - (e) A score that exceeds seventy-four percent (74%) on a written examination administered after coursework and clinical training.

- (11) The board shall approve all continuing education courses and require them for individuals holding anesthesia registration for over one (1) year without practical application. The courses shall be developed and implemented by dental education institutions accredited by the Commission on Dental Accreditation.

➔Section 11. KRS 313.070 is amended to read as follows:

- (1) A person who is not licensed or registered ~~[to do so]~~, or whose license or registration ~~[to do so]~~ has been suspended, revoked, or denied, shall not practice as a dentist, dental hygienist, or dental assistant.
- (2) Any person who violates subsection (1) of this section is guilty of a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.
- (3) The provisions of this section shall not preclude the board from revoking or increasing the suspension period of a person practicing as a dentist, dental hygienist, or dental assistant who has illegally practiced while his or her license or registration is under suspension or has been revoked.
- (4) The filing of criminal charges or a criminal conviction for violation of the provisions of this chapter or the administrative regulations promulgated **by the board in accordance with KRS Chapter 13A** ~~[thereunder]~~ shall not preclude the board from instituting or imposing board disciplinary action authorized by this chapter against any person or organization violating this chapter or the administrative regulations promulgated **by the board in accordance with KRS Chapter 13A** ~~[thereunder]~~.
- (5) The institution or imposition of disciplinary action by the board against any person or organization violating the provisions of this chapter or the administrative regulations promulgated **by the board in accordance with KRS Chapter 13A** ~~[thereunder]~~ shall not preclude the filing of criminal charges against or a criminal conviction of any person or organization for violation of the provisions of this chapter or the administrative regulations promulgated **by the board in accordance with KRS Chapter 13A** ~~[thereunder]~~.
- (6)
 - (a) ~~[Nothing in]~~ This chapter shall **not** prohibit students from performing dental operations under the supervision of competent instructors approved by the dental school, college, or department of a university. The board may authorize the students of any dental college, school, or department of a university to practice dentistry in any state or municipal institution or public school, or under the board of health, or in a public clinic or a charitable institution. A ~~[No]~~ fee shall **not** be accepted by the student beyond the expenses provided by the stipend.
 - (b) Students shall be at all times under the direct supervision of a dentist licensed in this state ~~[,]~~ who is an instructor of the institution at which they are studying.
- (7) ~~[Nothing in]~~ This chapter shall **not** prohibit volunteer health practitioners providing services under KRS 39A.350 to 39A.366.
- (8) Violations of this chapter shall be heard in the Circuit Court of the county in which the alleged offense occurred.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

- (1) ***A person or entity shall not:***
 - (a) ***Represent themselves by using the title dentist, dental specialist, dental hygienist, or dental assistant unless licensed or registered under the provisions of this chapter;***
 - (b) ***Own, operate, offer to operate, or represent or advertise the operation of a dental practice of any type unless licensed by or employing individuals licensed by the board; or***
 - (c) ***Employ a dentist, dental hygienist, or dental assistant unless that dentist, dental hygienist, or dental assistant is licensed or registered under the provisions of this chapter.***
- (2) ***In a clinical setting:***
 - (a) ***A person or entity that is not licensed to practice dentistry under this chapter shall not exercise control over:***
 1. ***Clinical decision making;***
 2. ***Diagnosis or treatment planning;***
 3. ***Patient records;***

- 4. *The supervision of licensed dental personnel; or*
- 5. *The professional judgment of a licensed dentist; and*
- (b) *A licensed dentist shall retain final authority and responsibility for all clinical decisions affecting patient care.*
- (3) *The clinical operations of a dental practice entity shall not be directly or indirectly controlled by a person or entity that establishes reimbursement rates for dental services.*
- (4) *This section shall apply prospectively and ownership interests or contractual arrangements lawfully in existence on the effective date of this Act shall not be:*
 - (a) *Impaired or invalidated; or*
 - (b) *Prohibited from future expansion or modification.*

➔Section 13. KRS 313.080 is amended to read as follows:

- (1) ~~A~~~~No~~ person *or entity* shall *not* ~~be~~:
 - (a) ~~Call or hold himself out as or use the title dentist, dental specialist, dental hygienist, or dental assistant unless licensed or registered under the provisions of this chapter;~~
 - (b) ~~Operate, offer to operate, or represent or advertise the operation of a dental practice of any type unless licensed by or employing individuals licensed by the board;~~
 - (c) ~~Employ a dentist, dental hygienist, or dental assistant unless that person is licensed or registered under the provisions of this chapter; or~~
 - (d) ~~maintain any license or certificate authorized by this chapter if convicted of, having entered a guilty plea to, having entered an Alford plea to, or having completed a diversion program for a Class A, B, or C felony offense on or after the date of initial licensure or registration.~~
- (2) Persons licensed or registered by the board or who are applicants for licensure or registration by the board shall be subject to disciplinary action by the board if they:
 - (a) ~~While~~~~if~~ licensed or registered by the board:
 - 1. Violate:
 - a. Any provision of this chapter or any administrative regulation promulgated by the board; or
 - b. KRS 304.39-215; or
 - 2. Engage in conduct that is subject to the penalties under KRS 304.99-060(4) or (5);
 - (b) Use fraud or deceit in obtaining or attempting to obtain a license or registration from the board, or are granted a license upon mistake of a material fact;
 - (c) ~~While~~~~if~~ licensed or registered by the board, ~~negligently~~ act in a manner inconsistent with the *moral or ethical standards*~~practice~~ of the discipline for which the person is licensed or registered;
 - (d) Are unable to practice a discipline regulated by the board with reasonable skill or safety or are unfit or incompetent to practice a discipline regulated by the board;
 - (e) Abuse, misuse, or misappropriate any drugs placed in the custody of the licensee or certified person for administration, or for use of others, or those drugs prescribed by the licensee;
 - (f) Falsify or fail to make essential entries on essential records;
 - (g) Are convicted of a misdemeanor which involved acts which bear directly on the qualifications or ability of the applicant, licensee, or certified person to practice the discipline for which the person is an applicant, licensee, or certified person, if in accordance with KRS Chapter 335B;
 - (h) Are convicted of a misdemeanor which involved fraud, deceit, breach of trust, or physical harm or endangerment to self or others, acts which bear directly on the qualifications or ability of the applicant, licensee, or certificate holder to practice acts in the license or registration held or sought, if in accordance with KRS Chapter 335B;
 - (i) Are convicted of a misdemeanor offense under KRS Chapter 510 involving a patient;

- (j) Have had a license or certificate to practice as a dentist, dental hygienist, or dental assistant denied, limited, suspended, probated, revoked, or otherwise disciplined in Kentucky or in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;
 - (k) Have a license or registration to practice any activity regulated by the board denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or registration to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;
 - (l) Violate any lawful order or directive previously entered by the board;
 - (m) Have been listed on the National Practitioner Databank with a substantiated finding of abuse, neglect, or misappropriation of property;
 - (n) Fail to notify the board in writing of any change in the person's name, residential address, employment address, preferred mailing address, or telephone number within thirty (30) days of the change;
 - (o) Fail to comply with KRS 422.317 regarding patient records; or
 - (p) Fail to report to the board any negative outcome related to dental treatment involving intravenous or conscious sedation beyond anxiety control that requires hospital admission.
- ~~(4)(3)~~ A person who violates subsection (1)(a), (b), (c), or (d) of this section shall be guilty of a Class B misdemeanor for a first offense and a Class A misdemeanor for each subsequent offense. The board shall consider each individual count of a violation as a separate and subsequent offense.
- ~~(5)(4)~~ The provisions of this section shall not preclude prosecution for the unlawful practice of dentistry by an agency of the Commonwealth.
- ~~(6)(5)~~ The filing of criminal charges or a criminal conviction for violation of the provisions of this chapter or the administrative regulations promulgated *by the board in accordance with KRS Chapter 13A* ~~thereunder~~ shall not preclude the Office of the Board from instituting or imposing board disciplinary action authorized by this chapter against any person or organization violating this chapter or the administrative regulations promulgated *by the board in accordance with KRS Chapter 13A* ~~thereunder~~.
- ~~(7)(6)~~ The institution or imposition of disciplinary action by the Office of the Board against any person or organization violating the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the filing of criminal charges against or a criminal conviction of any person or organization for violation of the provisions of this chapter or the administrative regulations promulgated *by the board in accordance with KRS Chapter 13A* ~~thereunder~~.

➔Section 14. KRS 313.090 is amended to read as follows:

- (1) In accordance with the provisions of KRS Chapter 13B, all discipline for which the board is authorized to conduct investigations, hold hearings, and impose punishments is delegated to the executive director, board attorney, and hearing panel as provided in this section.
- (2) Any person may make a complaint to the executive director that a dentist, dental hygienist, dental assistant, or other person licensed or registered by the board has violated a provision of this chapter, an administrative regulation promulgated *by the board in accordance with KRS Chapter 13A* ~~[- pursuant to this chapter]~~, a practice standard, or an order of the board.
- (3) Each complaint shall:
 - (a) Be in writing;
 - (b) Identify specifically the person or organization against whom the complaint is made;
 - (c) Set forth the facts relating to the violation alleged and any other supporting information which may have a bearing on the matter;
 - (d) Contain the name, address, telephone number, facsimile number, and *email* ~~[- mail]~~ address, if available, of the complainant; and
 - (e) Be signed by the complainant as the truth of the statements contained in the complaint by the complainant.

- (4) A complaint which is unsigned shall not be acted upon by the executive director unless the complaint involves a violation of standards set forth by the Centers for Disease Control or alleged mental or physical impairment as provided for in KRS 313.130. A complaint which is not signed in the manner specified in subsection (3) of this section shall be returned to the complainant for completion.
- (5) The executive director of the board may, on behalf of the board, based on knowledge available to the Office of the Board, make a complaint against any person or organization regulated by the board in the same manner as provided in subsection (3) of this section.
- (6) Upon receipt of a properly completed complaint, the executive director shall assign the complaint to a staff investigator who shall investigate the complaint and shall make findings of fact and recommendations to the executive director who shall then convene a meeting of the Law Enforcement Committee.
- (7) The staff investigator shall notify the person or organization against whom the complaint has been filed and shall notify the employer of the dentist, dental hygienist, or dental assistant of the complaint.
- (8) The notification shall name the person or organization complained against, the complainant, the violations alleged, and the facts presented in the complaint and shall notify the person or organization complained against and the employer of:
 - (a) The fact that the complaint shall be answered, the steps for answering the complaint, and the action to be taken if the complaint is not answered;
 - (b) The timeframe and steps in the proceedings of a complaint;
 - (c) The rights of the parties, including the right to counsel; and
 - (d) The right to testify at any hearing.
- (9) Upon the failure of a licensee or certificate holder to respond to a written accusation or to request a hearing within twenty (20) days after the sending of the accusation, the accused shall be considered to have admitted the truth of the facts and the circumstances in the allegation and appropriate discipline may be imposed.
- (10) After reviewing the complaint and results of any investigation conducted on behalf of the board, the Law Enforcement Committee shall consider whether the accusation is sufficient to remand the matter for a hearing as provided in this section and KRS Chapter 13B. A majority vote of the members of the Law Enforcement Committee shall be necessary for action to ~~either~~ remand the matter for hearing, *offer a settlement*, or dismiss the complaint without a hearing.
- (11) If the Law Enforcement Committee dismisses the complaint, all parties notified previously shall be notified of the action. If the Law Enforcement Committee remands the matter for a hearing, all parties notified previously shall be notified of the action.
- (12) Each proceeding to consider the imposition of a penalty which the board is authorized to impose pursuant to this chapter shall be conducted in accordance with KRS Chapter 13B.
- (13) A hearing panel for purposes of making a decision in any disciplinary matter shall consist of a quorum of the remaining seven (7) **voting** members of the board who are not on the Law Enforcement Committee and the hearing officer.
- (14) The board may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by any Circuit Court for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.
- (15) At all hearings the board attorney or, on request of the board, the Attorney General of this state or one (1) of the assistant attorneys general designated, shall appear and represent the board.
- (16) The dentist, dental hygienist, or dental assistant who is the defendant in a hearing shall be a party to the action and may appear and testify in the matter at any deposition or hearing on the matter and may propose conclusions of law, findings of fact, and penalties to the hearing panel.
- (17) To make a finding or impose discipline, a majority of the members of the hearing panel who are not the hearing officer shall agree on the finding or discipline.
- (18) The final order in any disciplinary proceeding shall be prepared by the hearing officer and sent to all parties in the manner prescribed by law.

- (19) Any person or entity aggrieved by a final order of the board may appeal the final order to the Circuit Court of the county in which the person or entity resides in accordance with KRS Chapter 13B.
- (20) Upon final disposition of a complaint which results in disciplinary action, the final order shall be published on the ~~website~~~~[Web site]~~ of the board, placed in the record of the licensed or registered individual, and reported to the National Practitioner Database.

➔Section 15. KRS 313.130 is amended to read as follows:

- (1) If the Law Enforcement Committee has reasonable cause to believe any licensee or certificate holder or any applicant for licensure or registration by examination, reinstatement, credentials, or change of status is unable to practice with reasonable skill or safety or has abused alcohol or drugs, it may require such person to submit to a mental or physical examination by a physician or psychologist it designates. Upon the failure of the person to submit to a mental or physical examination, unless due to circumstances beyond the person's control, the Law Enforcement Committee may initiate an action for immediate temporary suspension pursuant to this chapter or deny the application until the person submits to the required examination. The Law Enforcement Committee may issue an immediate and temporary suspension from the time of the examination until the hearing.
- (2) Every licensee or certificate holder or applicant for licensure or registration by examination, reinstatement, credentials, or change of status shall be deemed to have given consent to submit to an examination when so directed in writing by the board. The direction to submit to an examination shall contain the basis of the Office of the Board's reasonable cause to believe that the person is unable to practice with reasonable skill or safety~~[,]~~ or has abused alcohol or drugs. The person shall be deemed to have waived all objections to the admissibility of the examining physician's or psychologist's testimony or examination reports on the ground of privileged communication.
- (3) The licensee or certificate holder or applicant for licensure or registration by examination, reinstatement, credentials, or change of status shall bear the cost of any mental or physical examination ordered by the Office of the Board.
- (4) The board shall establish a committee for individuals licensed or registered by the board, to be designated as the Well-being Committee, to promote the early identification, intervention, treatment, and rehabilitation of individuals licensed or registered who may be impaired by reasons of illness, alcohol or drug abuse, or as a result of any physical or mental condition. The board may enter into ~~[-]~~contractual ~~agreements~~~~[agreement with a nonprofit corporation or a dental association]~~ for the purpose of creating, supporting, and maintaining the Well-being Committee. The board may promulgate administrative regulations in accordance with KRS Chapter 13A to effectuate and implement the committee and may expend any funds it deems necessary to adequately provide for operational expenses of the committee. Any member of the Well-being Committee, as well as any administrator, staff member, consultant, agent, or employee of the committee acting within the scope of their duties and without actual malice, and all other persons who furnish information to the committee in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation, or action taken by the committee~~[,]~~ or by any individual member of the committee.
- (5) All information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the Well-being Committee, as well as communications to or from the committee, and any findings, conclusions, interventions, treatment, rehabilitation, or other proceedings of the committee ~~related~~~~[which in any way pertain]~~ to an individual licensed or registered who may be, or who actually is, impaired shall be privileged and confidential.
- (6) All records and proceedings of the Well-being Committee which pertain or refer to an individual licensed or registered who may be, or who actually is, impaired shall be privileged and confidential and shall be used by the committee and its members only in the exercise of the proper function of the committee and shall not be considered public records and shall be subject to court subpoena and subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except as described in subsection (4) of this section.
- (7) The Well-being Committee may disclose information relative to an impaired licensee or certificate holder ~~[only]~~when:
- (a) It is essential to disclose the information to further the intervention, treatment, or rehabilitation needs of the impaired individual, and only to those persons or organizations with a need to know;

- (b) Its release is authorized in writing by the impaired individual;
 - (c) The committee is required to make a report to the board; or
 - (d) The information is subject to court order.
- (8) ***Notwithstanding subsections (5) and (6) of this section, the board may publicly disclose the basis of a disciplinary action provided that the board does not disclose information furnished to or produced by the Well-being Committee.***

➔Section 16. KRS 313.550 is amended to read as follows:

- (1) A dental laboratory ***operating or doing business in Kentucky*** shall employ at least one (1) of the following:
 - (a) A certified dental technician who shall supervise all work performed in accordance with a written laboratory procedure work order issued by a dentist licensed pursuant to this chapter; or
 - (b) A dentist licensed ~~*under*~~~~*pursuant*~~ to this chapter.
- (2) ~~A~~~~[No]~~ dentist shall ***not*** use the services of any dental laboratory to construct, alter, repair, or duplicate any denture, plate, bridge, splint, orthodontic, or prosthetic appliance, without first furnishing the commercial dental laboratory a written procedure work order. Both the commercial dental laboratory and the dentist producing the work order shall keep a copy on file for two (2) years, and all laboratory procedure work orders required by this subsection shall be open to inspection by the board.
- (3) A dental laboratory that employs or contracts with a dentist licensed ~~*under*~~~~*according to*~~ this chapter may construct, alter, repair, or duplicate any denture, plate, bridge, splint, orthodontic, or prosthetic appliance without a work order from a referring dentist if the patient is seen, ~~for~~ evaluated, or ***has his or her***~~*whose*~~ care ~~is~~ supervised by the referring dentist.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

KRS Chapter 313 may be cited as the Kentucky Dental Practice Act.

➔Section 18. KRS 304.17C-085 is amended to read as follows:

- (1) As used in this section:
 - (a) "Contractual discount" means a percentage reduction from a provider's usual and customary rate for covered services ~~and material~~ required under a participating provider agreement; and
 - (b) "Covered services":
 - 1.* Means services and materials for which:
 - ~~a.~~~~[1.]~~ Reimbursement from a plan is provided by the enrollee's plan contract; or
 - ~~b.~~~~[2.]~~ Reimbursement would be available but for the application of the enrollee's contractual limitations of deductibles, copayments, coinsurance, or frequency limitations; ***and***
 - 2. Does not include services and materials for which reimbursement would be available but for the application of the enrollee's contractual limitation of an annual maximum benefit.*
- (2) A participating provider agreement shall not require a participating provider to provide services to an enrollee at a fee set by or subject to the approval of the limited health service benefit plan unless the services are covered services under the ***participating*** provider agreement.
- (3) A provider shall not charge more for services and materials that are noncovered services under a limited health service benefit plan than the provider's rate for the services and materials.
- (4) The amount of a contractual discount shall not result in a fee that is less than the limited health service benefit plan would pay for covered services but for the application an enrollee's contractual limitations of deductibles, copayments, coinsurance, or frequency limitations.
- (5) Reimbursement paid by the limited health service benefit plan for covered services:
 - (a) Shall be reasonable; and
 - (b) Shall not provide nominal reimbursement in order to claim that services and materials are covered services.

(6) *The provisions of this section shall not be waived by contract. Any contractual arrangement in conflict with this section or that purports to waive any requirement of this section shall be void.*

➔Section 19. Section 18 of this Act applies to contracts issued or renewed on or after the effective date of Section 18 of this Act.

➔Section 20. Whereas it is critical to ensure that the practice of dentistry is professional, safe, and protected for the well-being of the citizens of the Commonwealth, an emergency is declared to exist, and Sections 1 to 17 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 13, 2026.