

FIRST REGULAR SESSION

HOUSE BILL NO. 450

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES AVERY,
SCHOEMEHL (Co-sponsors) AND BEHNEN.

Read 1st time February 11, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1309L.021

AN ACT

To repeal sections 332.171, 332.181, 332.261, 332.321, and 332.341, RSMo, and to enact in lieu thereof five new sections relating to dentist licenses.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 332.171, 332.181, 332.261, 332.321, and 332.341, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 332.069, 332.171,
3 332.181, 332.261, and 332.321, to read as follows:

**332.069. 1. Any person not registered as a licensed dentist in Missouri shall not
2 engage in the practice of dentistry, as defined in section 332.171, across state lines, except
3 as provided in this section.**

**4 2. For the purposes of this chapter, the "practice of dentistry across state lines"
5 shall mean:**

**6 (1) The rendering of a written or otherwise documented dental opinion concerning
7 the diagnosis or treatment of a patient within this state by a dentist located outside this
8 state as a result of transmission of individual patient data by electronic, telephonic or other
9 means from within this state or any other state to such dentist or dentist's agent; or**

**10 (2) The rendering of treatment to a patient within this state by a dentist located
11 outside this state as a result of transmission of individual patient data by electronic,
12 telephonic or other means from within this state or any other state to such dentist or
13 dentist's agent.**

14 3. A dentist located outside of this state shall not be required to obtain a license

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is new proposed language.

15 **when:**

16 **(1) In consultation with a dentist licensed to practice dentistry in this state; and**

17 **(2) The dentist licensed in this state retains the ultimate authority and**
18 **responsibility for the diagnosis or treatment in the care of the patient located within this**
19 **state; or**

20 **(3) Evaluating a patient or rendering an oral, written or otherwise documented**
21 **dental opinion when providing testimony or records for the purpose of any civil or criminal**
22 **action before any judicial or administrative proceeding of this state or other forum in this**
23 **state.**

332.171. 1. The board shall upon application [and without examination] issue a
2 specialist's [certificate] **license** to any [registered and] currently licensed dentist in Missouri who
3 has been certified in any specialty by an [American] **examining** board recognized by the
4 American Dental Association[; but any]. **Any** such application shall be accompanied by the
5 required [specialty] fee.

6 2. Any [registered and] currently licensed dentist in Missouri who **has completed a**
7 **dental speciality program accredited by the Council on Dental Accreditation but** is not
8 eligible [to apply] **for speciality licensure** under subsection 1 [above] **of this section**, may apply
9 to the board for [certification] **speciality licensure** in one of the [special] **specialty** areas
10 [approved] **recognized** by the American Dental Association [for specialty practice]. Each such
11 application shall be accompanied by the required [specialty] fee. The board shall establish by
12 rule the minimum requirements for specialty [certification] **licensure** under this subsection. **The**
13 **board shall issue a specialty licensure to an applicant pursuant to this subsection so long**
14 **as the applicant meets the requirements of this subsection.**

15 3. [An examination committee, appointed by the board, consisting of three dentists who
16 have been certified by an American board approved by the American Dental Association as
17 having met the standards set by that association for the specialty for which application is made,
18 shall examine each applicant for a specialty at the time and place fixed by the board in a manner
19 to thoroughly test his qualifications in the specialty applied for, and report to the board as to
20 whether the applicant is qualified in the specialty.

21 4. In the event any applicant fails to pass the examination and is reported by the
22 examining committee as not qualified, he may upon application to the board be reexamined by
23 the committee at such time and place as the board may specify, but any such applicant shall pay
24 a reexamination fee equivalent to the specialty fee.] **The board shall grant a license in one of**
25 **the specialty areas recognized by the American Dental Association to a dentist who has**
26 **been so certified or licensed and is practicing in another state, province, or territory if the**
27 **applicant meets the following requirements and the application is accompanied by the**

28 **required fee:**

29 **(1) The applicant currently holds a Missouri license to practice dentistry or obtains**
30 **one through the provisions of such license pursuant to sections 332.131 and 332.181 or**
31 **section 332.211.**

32 **(2) The applicant meets the educational requirements for specialty licensure**
33 **required of original applicants for specialty licensure in the state of Missouri as required**
34 **in subsection 1 or 2 of this section.**

35 **(3) The applicant meets such other minimum requirements as may be established**
36 **by rule of the board for specialty licensure under this subsection.**

37 **4. The board may establish a committee for each American Dental Association**
38 **recognized specialty applied for to be comprised of at least two dentists appointed by the**
39 **board who hold Missouri specialty licenses in the recognized specialty and who are current**
40 **diplomats of an American specialty board recognized by the American Dental Association.**
41 **Each committee shall assist the board in evaluating an applicant for specialty licensure in**
42 **the recognized specialty for which that committee was established and assume such other**
43 **duties as shall be established by rule of the board.**

44 **5. Each member of [each examining] a specialty committee appointed by the board as**
45 **provided in this section shall receive [as] compensation in an amount set by the board, not to**
46 **exceed fifty dollars[,] for each day spent in the performance of his or her duties on the**
47 **committee, and each member shall be reimbursed for all actual and necessary expenses incurred**
48 **in the performance of his or her duties.**

49 **6. [The board shall issue to each applicant who has been recommended as qualified by**
50 **the examining committee, as provided in subsection 3 of this section, a certificate of registration**
51 **to practice dentistry in the specialty in which he has been so recommended.] All specialty**
52 **licenses shall be subject to discipline for cause as set forth in section 332.321 and each**
53 **specialty license holder shall renew his or her specialty license or licenses as provided in**
54 **section 332.181 and shall pay the required renewal fee.**

55 **7. [The board may also grant without examination a certificate of registration and a**
56 **license in one of the specialty areas recognized by the American Dental Association to a dentist**
57 **who has been so certified and/or licensed in another state, if the applicant meets the following**
58 **requirements:**

59 **(1) Applicant must either currently hold a Missouri license to practice dentistry or obtain**
60 **one through the provisions of sections 332.131 and 332.181, or through the provisions of section**
61 **332.211;**

62 **(2) Applicant must have taken and passed an examination equivalent to that given in**
63 **Missouri and have been granted a specialty license in another state. It is the obligation of the**

64 applicant to provide proper documentation which must include the content and grades received
65 in each portion of the examination and be certified by the state which administered the
66 examination. Determination as to whether an examination taken in another state is equivalent
67 to that given in Missouri will be made by the current Missouri specialty examining committee
68 in the appropriate specialty area;

69 (3) Applicant must have met the same educational requirements for certification and
70 licensure under this subsection as required of original applicants in the state of Missouri, as
71 established by rule by the board.

72 8. All such certificates shall be subject to revocation and suspension for the causes set
73 forth in section 332.321 and each certificate holder shall renew his regular license as provided
74 in section 332.181 and shall pay the regular renewal fee provided therefor and shall also renew
75 his specialty license and shall pay a specialty renewal fee.] **The board shall issue to each**
76 **applicant who has been recommended as qualified by the speciality committee, as provided**
77 **in subsection 4 of this section, a license to practice dentistry in the specialty in which he or**
78 **she has been so recommended.**

332.181. 1. No person shall engage in the practice of dentistry in Missouri without
2 having first secured a license as provided for in this chapter.

3 2. Any person desiring a license to practice dentistry in Missouri shall **pay the required**
4 **fee and** make application to the board on a form prescribed by the board pursuant to section
5 332.141. An application for licensure shall be active for one year after the date it is received by
6 the board. The application becomes void if not completed within such one-year period.

7 3. All persons once licensed to practice dentistry in Missouri shall renew his or her
8 license to practice dentistry in Missouri on or before the license renewal date and shall display
9 his or her license for each current licensing period in the office in which he or she practices or
10 offers to practice dentistry.

11 4. Effective with the licensing period beginning on December 1, 2002, a license shall be
12 renewed every two years. [The board shall not renew the license of any dentist unless the
13 licensee provides satisfactory evidence that he or she has completed fifty hours of continuing
14 education within a two-year period.] **To renew a license, each dentist shall submit satisfactory**
15 **evidence of completion of fifty hours of continuing education during the two-year period**
16 **immediately preceding the renewal period. Each dentist shall maintain documentation of**
17 **completion of the required continuing education hours as provided by rule. Failure to**
18 **obtain the required continuing education hours, submit satisfactory evidence, or maintain**
19 **documentation is a violation of section 332.321 and may subject the licensee to discipline.**
20 **As provided by rule,** the board may **waive or** extend the time requirements for completion of
21 continuing education [up to six months] for reasons related to health, military service, foreign

22 residency or for other good cause. All requests for **waivers or** extensions of time shall be made
23 in writing and submitted to the board before the renewal date. [The board may waive the
24 requirements for continuing education for retired or disabled dentists or for other good cause.]

25 5. Any licensed dentist who fails to renew his or her license on or before the renewal
26 date may apply to the board for renewal of his or her license within four years subsequent to the
27 date of the license expiration[, provided that any such applicant shall pay a reinstatement fee for
28 the license] **upon payment of the reinstatement fee and presentation of satisfactory evidence**
29 **that he or she has completed the continuing education requirements the same as if the**
30 **license had remained active. The license of any dentist who fails to renew within four years**
31 **of the time his or her license has expired shall be void. The dentist may reapply for a**
32 **license, provided that, unless application is made pursuant to section 332.211, he or she**
33 **shall pay the same fees and be examined in the same manner as an original applicant for**
34 **licensure as a dentist.**

35 [6. The license of any dentist who fails to renew within four years of the time his or her
36 license has expired shall be void. The dentist may reapply for a license, provided that, unless
37 application is made pursuant to section 332.211, he or she shall pay the same fees and be
38 examined in the same manner as an original applicant for licensure as a dentist. A currently
39 licensed dentist in Missouri may apply to the board to be placed on an inactive list of dentists,
40 and during the time his or her name remains on the inactive list, he or she shall not practice
41 dentistry. If a dentist wishes to be removed from the inactive list, unless he or she applies
42 pursuant to section 332.211, he or she shall apply for a current license and pay the license fees
43 for the years between the date of the entry of his or her name on the inactive list and the date of
44 issuance of his current license. If the dentist has been on the inactive list for more than four
45 years, he or she shall be examined in the same manner as an original applicant for licensure as
46 a dentist.

47 7. A currently licensed dentist in Missouri who does not maintain a practice in this state
48 or does not reside in this state may apply to the board to be placed on an out-of-state licensee list
49 of dentists. Any dentist applying to be so licensed shall accompany his or her application with
50 a fee not greater than the licensure fee for a licensee who maintains a practice in this state or who
51 resides in this state. The required fee shall be established by the board, by rule, as with other
52 licensing fees.]

332.261. 1. No person shall engage in the practice of dental hygiene without having first
2 secured a license as provided for in this chapter.

3 2. Any person desiring a license to practice dental hygiene in Missouri shall **pay the**
4 **required fee and** make application to the board on a form prescribed by the board pursuant to
5 section 332.241. An application for licensure shall be active for one year after the date it is

6 received by the board. The application becomes void if not completed within such one-year
7 period.

8 3. All persons once licensed to practice as a dental hygienist in Missouri shall renew his
9 or her license to practice on or before the renewal date and shall display his or her license for
10 each current licensing period in the office in which he or she practices or offers to practice as a
11 dental hygienist.

12 4. Effective with the licensing period beginning on December 1, 2002, a license shall be
13 renewed every two years. [The board shall not renew the license of any hygienist unless the
14 licensee provides satisfactory evidence that he or she has completed thirty hours of continuing
15 education within a two-year period.] **To renew a license, each dental hygienist shall submit**
16 **satisfactory evidence of completion of thirty hours of continuing education during the two-**
17 **year period immediately preceding the renewal period. Each dental hygienist shall**
18 **maintain documentation of completion of the required continuing education hours as**
19 **provided by rule. Failure to obtain the required continuing education hours, submit**
20 **satisfactory evidence, or maintain documentation is a violation of section 332.321, and may**
21 **subject the licensee to discipline. As provided by rule, the board may waive or extend the**
22 **time requirements for completion of the continuing education [up to six months] for reasons**
23 **related to health, military service, foreign residency or for other good cause. All requests for**
24 **waivers or extensions of time shall be made in writing and submitted to the board before the**
25 **renewal date. [The board may waive the requirements for continuing education for retired or**
26 **disabled hygienists or for other good cause.]**

27 5. Any licensed dental hygienist who fails to renew his or her license on or before the
28 renewal date may apply to the board for renewal of his or her license within four years
29 subsequent to the date of the license expiration[, provided that any such applicant shall pay a
30 reinstatement fee for the license] **upon payment of the reinstatement fee and presentation of**
31 **satisfactory evidence that he or she has completed the continuing education requirements**
32 **the same as if the license had remained active. The license of any dental hygienist who fails**
33 **to renew within four years of the time his or her license has expired shall be void. The**
34 **dental hygienist may reapply for a license; provided that, unless application is made**
35 **pursuant to section 332.281, he or she shall pay the same fees and be examined in the same**
36 **manner as an original applicant for licensure as a dental hygienist.**

37 [6. The license of any dental hygienist who fails to renew within four years of the time
38 that his or her license expired shall be void. The dental hygienist may apply for a new license,
39 provided that, unless application is made pursuant to section 332.281, he or she shall pay the
40 same fees and be examined in the same manner as an original applicant for licensure as a dental
41 hygienist. A currently licensed dental hygienist in Missouri may apply to the board to be placed

42 on an inactive list of dental hygienists, and during the time his or her name remains on the
43 inactive list, he or she shall not practice as a dental hygienist. If a dental hygienist wishes to be
44 removed from the inactive list, unless he or she applies pursuant to section 332.281, he or she
45 shall apply for a current license and pay the license fees for the years between the date of the
46 entry of his or her name on the inactive list and the date of issuance of his or her current license.
47 If the dental hygienist has been on the inactive list for more than four years, he or she shall be
48 examined in the same manner as an original applicant for licensure as a dental hygienist.

49 7. A currently licensed dental hygienist in Missouri who does not practice in this state
50 or who does not reside in this state may apply to the board to be placed on an out-of-state
51 registration list of dental hygienists. Any dental hygienist applying to be so licensed shall
52 accompany his or her application with a fee not greater than the license fee for a licensee who
53 practices in this state or resides in this state. The required fee shall be established by the board,
54 by rule, as with other licensing fees.]

 332.321. 1. The board may refuse to issue or renew a permit or license required pursuant
2 to this chapter for one or any combination of causes stated in subsection 2 of this section or the
3 board may, as a condition to issuing or renewing any such permit or license, require a person to
4 submit himself or herself for identification, intervention, treatment or rehabilitation by the
5 well-being committee as provided in section 332.327. The board shall notify the applicant in
6 writing of the reasons for the refusal and shall advise the applicant of his or her right to file a
7 complaint with the administrative hearing commission as provided by chapter 621, RSMo.

8 2. The board may cause a complaint to be filed with the administrative hearing
9 commission as provided by chapter 621, RSMo, against any holder of any permit or license
10 required by this chapter or any person who has failed to renew or has surrendered his or her
11 permit or license for any one or any combination of the following causes:

12 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic
13 beverage to an extent that such use impairs a person's ability to perform the work of any
14 profession licensed or regulated by this chapter;

15 (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty
16 or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United
17 States, for any offense reasonably related to the qualifications, functions or duties of any
18 profession licensed or regulated pursuant to this chapter, for any offense an essential element of
19 which is fraud, dishonesty or an act of violence, or any offense involving moral turpitude,
20 whether or not sentence is imposed;

21 (3) Use of fraud, deception, misrepresentation or bribery in securing any permit or
22 license issued pursuant to this chapter or in obtaining permission to take any examination given
23 or required pursuant to this chapter;

24 (4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by
25 fraud, deception or misrepresentation; or increasing charges when a patient utilizes a third-party
26 payment program; or for repeated irregularities in billing a third party for services rendered to
27 a patient. For the purposes of this subdivision, irregularities in billing shall include:

28 (a) Reporting charges for the purpose of obtaining a total payment in excess of that
29 usually received by the dentist for the services rendered;

30 (b) Reporting incorrect treatment dates for the purpose of obtaining payment;

31 (c) Reporting charges for services not rendered;

32 (d) Incorrectly reporting services rendered for the purpose of obtaining payment that is
33 greater than that to which the person is entitled;

34 (e) Abrogating the co-payment or deductible provisions of a third-party payment
35 contract. Provided, however, that this paragraph shall not prohibit a discount, credit or reduction
36 of charges provided under an agreement between the licensee and an insurance company, health
37 service corporation or health maintenance organization licensed pursuant to the laws of this state;
38 or governmental third-party payment program; or self-insurance program organized, managed
39 or funded by a business entity for its own employees or labor organization for its members;

40 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty
41 in the performance of, or relating to one's ability to perform, the functions or duties of any
42 profession licensed or regulated by this chapter;

43 (6) Violation of, or assisting or enabling any person to violate, any provision of this
44 chapter, or any lawful rule or regulation adopted pursuant to this chapter;

45 (7) Impersonation of any person holding a permit or license or allowing any person to
46 use his or her permit, license or diploma from any school;

47 (8) Disciplinary action against the holder of a license or other right to practice any
48 profession regulated by this chapter imposed by another state, province, territory, federal agency
49 or country upon grounds for which discipline is authorized in this state;

50 (9) A person is finally adjudicated incapacitated or disabled by a court of competent
51 jurisdiction;

52 (10) Assisting or enabling any person to practice or offer to practice, by lack of
53 supervision or in any other manner, any profession licensed or regulated by this chapter who is
54 not registered and currently eligible to practice pursuant to this chapter;

55 (11) Issuance of a permit or license based upon a material mistake of fact;

56 (12) Failure to display a valid certificate, permit or license if so required by this chapter
57 or by any rule promulgated hereunder;

58 (13) Violation of any professional trust or confidence;

59 (14) Use of any advertisement or solicitation that is false, misleading or deceptive to the

60 general public or persons to whom the advertisement or solicitation is primarily directed. False,
61 misleading or deceptive advertisements or solicitations shall include, but not be limited to:

62 (a) Promises of cure, relief from pain or other physical or mental condition, or improved
63 physical or mental health;

64 (b) Any misleading or deceptive statement offering or promising a free service. Nothing
65 herein shall be construed to make it unlawful to offer a service for no charge if the offer is
66 announced as part of a full disclosure of routine fees including consultation fees;

67 (c) Any misleading or deceptive claims of patient cure, relief or improved condition;
68 superiority in service, treatment or materials; new or improved service, treatment or material; or
69 reduced costs or greater savings. Nothing herein shall be construed to make it unlawful to use
70 any such claim if it is readily verifiable by existing documentation, data or other substantial
71 evidence. Any claim that exceeds or exaggerates the scope of its supporting documentation, data
72 or evidence is misleading or deceptive;

73 (d) Any announced fee for a specified service where that fee does not include the charges
74 for necessary related or incidental services, or where the actual fee charged for that specified
75 service may exceed the announced fee, but it shall not be unlawful to announce only the
76 maximum fee that can be charged for the specified service, including all related or incidental
77 services, modified by the term "up to" if desired;

78 (e) Any announcement in any form including the term "specialist" or the phrase "limited
79 to the specialty of" unless each person named in conjunction with the term or phrase, or
80 responsible for the announcement, holds a valid Missouri certificate and license evidencing that
81 the person is a specialist in that area;

82 (f) Any announcement containing any of the terms denoting recognized specialties, or
83 other descriptive terms carrying the same meaning, unless the announcement clearly designates
84 by list each dentist not licensed as a specialist in Missouri who is sponsoring or named in the
85 announcement, or employed by the entity sponsoring the announcement, after the following
86 clearly legible or audible statement: "Notice: the following dentist(s) in this practice is (are) not
87 licensed in Missouri as specialists in the advertised dental specialty(s) of";

88 (g) Any announcement containing any terms denoting or implying specialty areas that
89 are not recognized by the American Dental Association;

90 (15) Violation of the drug laws or rules and regulations of this state, any other state or
91 the federal government;

92 (16) Failure or refusal to properly guard against contagious, infectious or communicable
93 diseases or the spread thereof;

94 (17) Failing to maintain his or her office or offices, laboratory, equipment and
95 instruments in a safe and sanitary condition;

96 (18) Accepting, tendering or paying "rebates" to or "splitting fees" with any other person;
97 provided, however, that nothing herein shall be so construed as to make it unlawful for a dentist
98 practicing in a partnership or as a corporation organized pursuant to the provisions of chapter
99 356, RSMo, to distribute profits in accordance with his or her stated agreement;

100 (19) Administering, or causing or permitting to be administered, nitrous oxide gas in any
101 amount to himself or herself, or to another unless as an adjunctive measure to patient
102 management;

103 (20) Being unable to practice as a dentist, specialist or hygienist with reasonable skill
104 and safety to patients by reasons of professional incompetency, or because of illness,
105 drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical
106 condition. In enforcing this subdivision the board shall, after a hearing before the board, upon
107 a finding of probable cause, require the dentist or specialist or hygienist to submit to a
108 reexamination for the purpose of establishing his or her competency to practice as a dentist,
109 specialist or hygienist, which reexamination shall be conducted in accordance with rules adopted
110 for this purpose by the board, including rules to allow the examination of the dentist's, specialist's
111 or hygienist's professional competence by at least three dentists or fellow specialists, or to submit
112 to a mental or physical examination or combination thereof by at least three physicians. One
113 examiner shall be selected by the dentist, specialist or hygienist compelled to take examination,
114 one selected by the board, and one shall be selected by the two examiners so selected. Notice
115 of the physical or mental examination shall be given by personal service or registered mail.
116 Failure of the dentist, specialist or hygienist to submit to the examination when directed shall
117 constitute an admission of the allegations against him or her, unless the failure was due to
118 circumstances beyond his or her control. A dentist, specialist or hygienist whose right to practice
119 has been affected pursuant to this subdivision shall, at reasonable intervals, be afforded an
120 opportunity to demonstrate that he or she can resume competent practice with reasonable skill
121 and safety to patients.

122 (a) In any proceeding pursuant to this subdivision, neither the record of proceedings nor
123 the orders entered by the board shall be used against a dentist, specialist or hygienist in any other
124 proceeding. Proceedings pursuant to this subdivision shall be conducted by the board without
125 the filing of a complaint with the administrative hearing commission;

126 (b) When the board finds any person unqualified because of any of the grounds set forth
127 in this subdivision, it may enter an order imposing one or more of the following: denying his or
128 her application for a license; permanently withholding issuance of a license; administering a
129 public or private reprimand; placing on probation, suspending or limiting or restricting his or her
130 license to practice as a dentist, specialist or hygienist for a period of not more than five years;
131 revoking his or her license to practice as a dentist, specialist or hygienist; requiring him or her

132 to submit to the care, counseling or treatment of physicians designated by the dentist, specialist
133 or hygienist compelled to be treated; or requiring such person to submit to identification,
134 intervention, treatment or rehabilitation by the well-being committee as provided in section
135 332.327. For the purpose of this subdivision, "license" includes the certificate of registration,
136 or license, or both, issued by the board.

137 3. After the filing of such complaint, the proceedings shall be conducted in accordance
138 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing
139 commission that the grounds, provided in subsection 2, for disciplinary action are met, the board
140 may, singly or in combination:

141 (1) Censure or place the person or firm named in the complaint on probation on such
142 terms and conditions as the board deems appropriate for a period not to exceed five years; or

143 (2) Suspend the license, certificate or permit for a period not to exceed three years; or

144 (3) Revoke the license, certificate, or permit. In any order of revocation, the board may
145 provide that the person shall not apply for licensure for a period of not less than one year
146 following the date of the order of revocation; or

147 (4) Cause the person or firm named in the complaint to make restitution to any patient,
148 or any insurer or third-party payer who shall have paid in whole or in part a claim or payment for
149 which they should be reimbursed, where restitution would be an appropriate remedy, including
150 the reasonable cost of follow-up care to correct or complete a procedure performed or one that
151 was to be performed by the person or firm named in the complaint; or

152 (5) Request the attorney general to bring an action in the circuit court of competent
153 jurisdiction to recover a civil penalty on behalf of the state in an amount to be assessed by the
154 court.

155 **4. If the board concludes that a dentist or dental hygienist has committed an act or**
156 **is engaging in a course of conduct that would be grounds for disciplinary action and**
157 **constitutes a clear and present danger to the public health and safety, the board may file**
158 **a complaint before the administrative hearing commission requesting an expedited hearing**
159 **and specifying the conduct that gives rise to the danger and the nature of the proposed**
160 **restriction or suspension of the dentist's or dental hygienist's license. Within fifteen days**
161 **after service of the complaint on the dentist or dental hygienist, the administrative hearing**
162 **commission shall conduct a preliminary hearing to determine whether the alleged conduct**
163 **of the dentist or the dental hygienist appears to constitute a clear and present danger to the**
164 **public health and safety that justifies that the dentist's or dental hygienist's license be**
165 **immediately restricted or suspended. The burden of proving that a dentist or dental**
166 **hygienist is a clear and present danger to the public health and safety shall be upon the**
167 **Missouri dental board. The administrative hearing commission shall issue its decision**

168 immediately after the hearing and shall either grant to the board the authority to suspend
169 or restrict the license or dismiss the action.

170 **5. If the administrative hearing commission grants temporary authority to the**
171 **board to restrict or suspend a dentist's or dental hygienist's license, the dentist or dental**
172 **hygienist named in the complaint may request a full hearing before the administrative**
173 **hearing commission. A request for a full hearing shall be made within thirty days after the**
174 **administrative hearing commission issues its decision. The administrative hearing**
175 **commission shall, if requested by the dentist or dental hygienist named in the complaint,**
176 **set a date to hold a full hearing under the provisions of chapter 621, RSMo, regarding the**
177 **activities alleged in the initial complaint filed by the board. The administrative hearing**
178 **commission shall set the date for full hearing within ninety days from the date its decision**
179 **was issued. Either party may request continuances, which shall be granted by the**
180 **administrative hearing commission upon a showing of good cause by either party or**
181 **consent of both parties. If a request for a full hearing is not made within thirty days, the**
182 **authority to impose discipline shall become final and the board shall set the matter for**
183 **hearing in accordance with section 621.110, RSMo.**

184 **6. If the administrative hearing commission dismisses without prejudice the**
185 **complaint filed by the board pursuant to subsection 4 of this section or dismisses the action**
186 **based on a finding that the board did not meet its burden of proof establishing a clear and**
187 **present danger, such dismissal shall not bar the board from initiating a subsequent action**
188 **on the same grounds in accordance with this chapter and chapters 536 and 621, RSMo.**

189 **7. Notwithstanding any other provisions of section 332.071 or of this section, a currently**
190 **licensed dentist in Missouri may enter into an agreement with individuals and organizations to**
191 **provide dental health care, provided such agreement does not permit or compel practices that**
192 **violate any provision of this chapter.**

193 **[5.] 8. At all proceedings for the enforcement of these or any other provisions of this**
194 **chapter the board shall, as it deems necessary, select, in its discretion, either the attorney general**
195 **or one of the attorney general's assistants designated by the attorney general or other legal**
196 **counsel to appear and represent the board at each stage of such proceeding or trial until its**
197 **conclusion.**

198 **[6.] 9. If at any time when any discipline has been imposed pursuant to this section or**
199 **pursuant to any provision of this chapter, the licensee removes himself or herself from the state**
200 **of Missouri, ceases to be currently licensed pursuant to the provisions of this chapter, or fails to**
201 **keep the Missouri dental board advised of his or her current place of business and residence, the**
202 **time of his or her absence, or unlicensed status, or unknown whereabouts shall not be deemed**
203 **or taken as any part of the time of discipline so imposed.**

2 [332.341. 1. Any person or other entity who believes that a registered and
3 licensed dentist or a registered and licensed dental hygienist has so acted or failed to
4 act that his certificate of registration or license or both should, under the provisions
5 of this chapter, be suspended or revoked, or who believes that any applicant for a
6 certificate of registration or license to practice dentistry or to practice as a dental
7 hygienist is not entitled thereto under the provisions of this chapter, may file a
8 complaint with the secretary-treasurer of the board.

9 2. If the complaint so filed does not contain statements of fact which if true
10 would authorize, under the provisions of this chapter, suspension or revocation of the
11 accused's certificate or license, or does not contain statements of fact which if true
12 would authorize, under the provisions of this chapter, the refusal to issue a certificate
13 or license to an applicant, the board shall either forthwith dismiss the charge or the
14 charges or, within its discretion, cause an investigation to be made of the charges
15 contained in the complaint; after which investigation the board shall either dismiss
16 the charge or charges or proceed against the accused by written complaint as
17 hereinafter provided.

18 3. If the complaint so filed contains statements of fact which if true would
19 authorize, under the provisions of this chapter, the revocation or suspension of an
20 accused's certificate or license, or both, the board shall cause an investigation to be
21 made of the charge or charges contained in the complaint and unless the investigation
22 discloses the falsity of the facts upon which the charge or charges in the complaint
23 are based, the board shall file with and in the administrative hearing commission a
24 written complaint against the accused setting forth the cause or causes for which his
25 certificate of registration or license or both should be suspended or revoked.
26 Thereafter the board shall be governed by and shall proceed in accordance with the
27 provisions of chapter 621, RSMo.

28 4. If the charges contained in the complaint filed with the board (after the
29 investigation as aforesaid), if true, would constitute a cause or causes for which,
30 under the provisions of this chapter, an accused's license should not be issued or
31 renewed or a cause or causes for which under the provisions of this chapter a
32 certificate of registration should not be issued, the board shall cause an investigation
33 to be made of the charge or charges and unless the investigation discloses the falsity
34 of the facts upon which the charge or charges contained in the complaint are based,
35 the board shall refuse to permit an applicant to be examined upon his qualifications
36 for licensure or shall refuse to issue a certificate or license or to renew a license, as
37 the case may require.

38 5. The provisions of this section shall not be so construed as to prevent the
39 board on its own initiative from instituting and conducting investigations and based
40 thereon to make written complaints in and to the hearing commission.

41 6. If for any reason the provisions of chapter 621, RSMo, become
42 inapplicable to the board, then, and in that event, the board shall proceed to charge,
43 adjudicate and otherwise act in accordance with the provisions of chapter 536,
RSMo.]