

SECOND REGULAR SESSION

# HOUSE BILL NO. 2659

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SMITH (163).

6698H.02I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 332.081, RSMo, and to enact in lieu thereof one new section relating to operating standards promulgated by the Missouri dental board.

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

Section A. Section 332.081, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 332.081, to read as follows:

332.081. 1. Notwithstanding any other provision of law to the contrary, hospitals licensed under chapter 197 shall be authorized to employ any or all of the following oral health providers:

(1) A dentist licensed under this chapter for the purpose of treating on hospital premises those patients who present with a dental condition and such treatment is necessary to ameliorate the condition for which they presented such as severe pain or tooth abscesses;

(2) An oral and maxillofacial surgeon licensed under this chapter for the purpose of treating oral conditions that need to be ameliorated as part of treating the underlying cause of the patient's medical needs including, but not limited to, head and neck cancer, HIV or AIDS, severe trauma resulting in admission to the hospital, organ transplant, diabetes, or seizure disorders. It shall be a condition of treatment that such patients are admitted to the hospital on either an in- or out-patient basis; and

(3) A maxillofacial prosthodontist licensed under this chapter for the purpose of treating and supporting patients of a head and neck cancer team or other complex care or surgical team for the fabrication of appliances following ablative surgery, surgery to correct birth anomalies, extensive radiation treatment of the head or neck, or trauma-related surgery.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           2. No person or other entity shall practice dentistry in Missouri or provide dental services  
18 as defined in section 332.071 unless and until the board has issued to the person a certificate  
19 certifying that the person has been duly registered as a dentist in Missouri or to an entity that has  
20 been duly registered to provide dental services by licensed dentists and dental hygienists and  
21 unless and until the board has issued to the person a license, to be renewed each period, as  
22 provided in this chapter, to practice dentistry or as a dental hygienist, or has issued to the person  
23 or entity a permit, to be renewed each period, to provide dental services in Missouri. Nothing  
24 in this chapter shall be so construed as to make it unlawful for:

25           (1) A legally qualified physician or surgeon, who does not practice dentistry as a  
26 specialty, from extracting teeth;

27           (2) A dentist licensed in a state other than Missouri from making a clinical  
28 demonstration before a meeting of dentists in Missouri;

29           (3) Dental students in any accredited dental school to practice dentistry under the  
30 personal direction of instructors;

31           (4) Dental hygiene students in any accredited dental hygiene school to practice dental  
32 hygiene under the personal direction of instructors;

33           (5) A duly registered and licensed dental hygienist in Missouri to practice dental hygiene  
34 as defined in section 332.091;

35           (6) A dental assistant, certified dental assistant, or expanded functions dental assistant  
36 to be delegated duties as defined in section 332.093;

37           (7) A duly registered dentist or dental hygienist to teach in an accredited dental or dental  
38 hygiene school;

39           (8) A duly qualified anesthesiologist or nurse anesthetist to administer an anesthetic in  
40 connection with dental services or dental surgery; or

41           (9) A person to practice dentistry in or for:

42           (a) The United States Armed Forces;

43           (b) The United States Public Health Service;

44           (c) Migrant, community, or health care for the homeless health centers provided in  
45 Section 330 of the Public Health Service Act (42 U.S.C. Section 254(b));

46           (d) Federally qualified health centers as defined in Section 1905(l) (42 U.S.C. Section  
47 1396d(l)) of the Social Security Act;

48           (e) Governmental entities, including county health departments; or

49           (f) The United States Veterans Bureau; or

50           (10) A dentist licensed in a state other than Missouri to evaluate a patient or render an  
51 oral, written, or otherwise documented dental opinion when providing testimony or records for

52 the purpose of a civil or criminal action before any judicial or administrative proceeding of this  
53 state or other forum in this state.

54 3. No corporation shall practice dentistry as defined in section 332.071 unless that  
55 corporation is organized under the provisions of chapter 355 or 356 provided that a corporation  
56 organized under the provisions of chapter 355 and qualifying as an organization under 26 U.S.C.  
57 Section 501(c)(3) may only employ dentists and dental hygienists licensed in this state to render  
58 dental services to Medicaid recipients, low-income individuals who have available income below  
59 two hundred percent of the federal poverty level, and all participants in the SCHIP program,  
60 unless such limitation is contrary to or inconsistent with federal or state law or regulation. This  
61 subsection shall not apply to:

62 (1) A hospital licensed under chapter 197 that provides care and treatment only to  
63 children under the age of eighteen at which a person regulated under this chapter provides dental  
64 care within the scope of his or her license or registration;

65 (2) A federally qualified health center as defined in Section 1905(l) of the Social Security  
66 Act (42 U.S.C. Section 1396(d)(l)), or a migrant, community, or health care for the homeless  
67 health center provided for in Section 330 of the Public Health Services Act (42 U.S.C. Section  
68 254(b)) at which a person regulated under this chapter provides dental care within the scope of  
69 his or her license or registration;

70 (3) A city or county health department organized under chapter 192 or chapter 205 at  
71 which a person regulated under this chapter provides dental care within the scope of his or her  
72 license or registration;

73 (4) A social welfare board organized under section 205.770, a city health department  
74 operating under a city charter, or a city-county health department at which a person regulated  
75 under this chapter provides dental care within the scope of his or her license or registration;

76 (5) Any entity that has received a permit from the dental board and does not receive  
77 compensation from the patient or from any third party on the patient's behalf at which a person  
78 regulated under this chapter provides dental care within the scope of his or her license or  
79 registration;

80 (6) Any hospital nonprofit corporation exempt from taxation under Section 501(c)(3) of  
81 the Internal Revenue Code, as amended, that engages in its operations and provides dental  
82 services at facilities owned by a city, county, or other political subdivision of the state at which  
83 a person regulated under this chapter provides dental care within the scope of his or her license  
84 or registration.

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86 If any of the entities exempted from the requirements of this subsection are unable to provide  
87 services to a patient due to the lack of a qualified provider and a referral to another entity is

88 made, the exemption shall extend to the person or entity that subsequently provides services to  
89 the patient.

90 4. No unincorporated organization shall practice dentistry as defined in section 332.071  
91 unless such organization is exempt from federal taxation under Section 501(c)(3) of the Internal  
92 Revenue Code of 1986, as amended, and provides dental treatment without compensation from  
93 the patient or any third party on their behalf as a part of a broader program of social services  
94 including food distribution. Nothing in this chapter shall prohibit organizations under this  
95 subsection from employing any person regulated by this chapter.

96 5. A dentist shall not enter into a contract that allows a person who is not a dentist to  
97 influence or interfere with the exercise of the dentist's independent professional judgment.

98 6. A not-for-profit corporation organized under the provisions of chapter 355 and  
99 qualifying as an organization under 26 U.S.C. Section 501(c)(3), an unincorporated organization  
100 operating pursuant to subsection 4 of this section, or any other person should not direct or  
101 interfere or attempt to direct or interfere with a licensed dentist's professional judgment and  
102 competent practice of dentistry. Nothing in this subsection shall be so construed as to make it  
103 unlawful for not-for-profit organizations to enforce employment contracts, corporate policy and  
104 procedure manuals, or quality improvement or assurance requirements.

105 7. All entities defined in subsection 3 of this section and those exempted under  
106 subsection 4 of this section shall apply for a permit to employ dentists and dental hygienists  
107 licensed in this state to render dental services, and the entity shall apply for the permit in writing  
108 on forms provided by the Missouri dental board. The board shall not charge a fee of any kind  
109 for the issuance or renewal of such permit. The provisions of this subsection shall not apply to  
110 a federally qualified health center as defined in Section 1905(l) of the Social Security Act (42  
111 U.S.C. Section 1396d(l)).

112 8. Any entity that obtains a permit to render dental services in this state is subject to  
113 discipline pursuant to section 332.321. If the board concludes that the person or entity has  
114 committed an act or is engaging in a course of conduct that would be grounds for disciplinary  
115 action, the board may file a complaint before the administrative hearing commission. The board  
116 may refuse to issue or renew the permit of any entity for one or any combination of causes stated  
117 in subsection 2 of section 332.321. The board shall notify the applicant in writing of the reasons  
118 for the refusal and shall advise the applicant of his or her right to file a complaint with the  
119 administrative hearing commission as provided by chapter 621.

120 9. A federally qualified health center as defined in Section 1905(l) of the Social Security  
121 Act (42 U.S.C. Section 1396d(l)) shall register with the board. The information provided to the  
122 board as part of the registration shall include the name of the health center, the nonprofit status  
123 of the health center, sites where dental services will be provided, and the names of all persons

124 employed by, or contracting with, the health center who are required to hold a license pursuant  
125 to this chapter. The registration shall be renewed every twenty-four months. The board shall not  
126 charge a fee of any kind for the issuance or renewal of the registration. The registration of the  
127 health center shall not be subject to discipline pursuant to section 332.321. Nothing in this  
128 subsection shall prohibit disciplinary action against a licensee of this chapter who is employed  
129 by, or contracts with, such health center for the actions of the licensee in connection with such  
130 employment or contract. ~~[All licensed persons employed by, or contracting with, the health~~  
131 ~~center shall certify in writing to the board at the time of issuance and renewal of the registration~~  
132 ~~that the facility of the health center meets the same operating standards regarding cleanliness,~~  
133 ~~sanitation, and professionalism as would the facility of a dentist licensed by this chapter. The~~  
134 ~~board shall promulgate rules regarding such standards.]~~

135         10. The board may promulgate rules and regulations to ensure not-for-profit corporations  
136 are rendering care to the patient populations as set forth herein, including requirements for  
137 covered not-for-profit corporations to report patient census data to the board. The provisions of  
138 this subsection shall not apply to a federally qualified health center as defined in Section 1905(l)  
139 of the Social Security Act (42 U.S.C. Section 1396d(l)).

140         11. All not-for-profit corporations organized or operated pursuant to the provisions of  
141 chapter 355 and qualifying as an organization under 26 U.S.C. Section 501(c)(3), or the  
142 requirements relating to migrant, community, or health care for the homeless health centers  
143 provided in Section 330 of the Public Health Service Act (42 U.S.C. Section 254(b)) and  
144 federally qualified health centers as defined in Section 1905(l) (42 U.S.C. Section 1396d(l)) of  
145 the Social Security Act, that employ persons who practice dentistry or dental hygiene in this state  
146 shall do so in accordance with the relevant laws of this state except to the extent that such laws  
147 are contrary to, or inconsistent with, federal statute or regulation.

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