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# State Board of Dental Examiners

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S.B. 263 Nelson (Gallego)

## Summary

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The Texas Legislature first required dentists to be licensed in 1897 by providing for district judges to appoint local boards of practicing dentists. In 1911, the Legislature created a statewide agency, the State Board of Dental Examiners (the Board), to license dentists. Today, the Board has three primary missions: license dentists and dental hygienists, register qualified dental laboratories, and enforce the Dental Practice Act, including investigating and resolving complaints. The Board operates with an annual budget of about \$1.87 million and 29 full-time employees.

Senate Bill 263 continues the Board for 12 years, with modifications to the Board's operations and policies, particularly in the area of enforcement. The legislation reflects the Sunset Commission's recommendations to strengthen the Board's enforcement procedures, ensure that the Board has appropriate regulatory authority over dental practitioners, and reduce the size of the Board. Other Sunset provisions in the bill include removing unnecessary barriers to dental licensure in Texas, enhancing the role of the Dental Hygiene Advisory Committee, and improving coordination between the Board and the Health and Human Services Commission on Medicaid-related complaint cases. The list below summarizes the major provisions of S.B. 263, and a more detailed summary follows.

## Sunset Provisions

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1. Continue the Board for 12 Years, and Eliminate the Separate Sunset Date for the Dental Hygiene Advisory Committee.
2. Reduce the Size of the Board From 18 to 15 Members.
3. Provide the Board With Additional Tools to Strengthen Its Enforcement Process.
4. Improve Coordination Between the Board and the Health and Human Services Commission on Medicaid-Related Issues.
5. Expand the Board's Existing Regulation of Dental Assistants to Require Greater Competence by Those Who Take X-Rays.
6. Provide for Licensing Dental Educators Who Provide Dental Services at Accredited Dental or Dental Hygiene Schools in Texas.
7. Reduce the Experience Requirement for Dental Licensure by Credentials.
8. Require the Board to Establish a System for Expunging Groundless, Dismissed Complaints From Its Records.
9. Require the Board to Act on Recommendations Proposed by the Dental Hygiene Advisory Committee Within a Specified Time.

**Provision Added by the Legislature** \_\_\_\_\_

10. Simplify the Process by Which Licensees Provide Proof of CPR Requirements.

## Sunset Provisions

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### **1. Continue the Board for 12 Years, and Eliminate the Separate Sunset Date for the Dental Hygiene Advisory Committee.**

Senate Bill 263 continues the State Board of Dental Examiners as an independent agency responsible for regulating the dental industry for the standard 12-year period. The bill eliminates the separate Sunset date for the Dental Hygiene Advisory Committee, ensuring that the advisory committee is reviewed each time the Board undergoes review by the Sunset Commission.

### **2. Reduce the Size of the Board From 18 to 15 Members.**

This provision brings the Board into compliance with a 1999 constitutional amendment requiring boards and commissions to consist of an odd number of members. The bill removes two of the dentist positions and one of the public-member positions from the Board, leaving the Board with 15 members consisting of eight dentists, two dental hygienists, and five public members.

### **3. Provide the Board With Additional Tools to Strengthen Its Enforcement Process.**

To improve the Board's accountability and allow for more timely and efficient disposition of complaints, S.B. 263 provides the Board with additional enforcement tools. The bill expands the role of staff to dismiss baseless cases, conduct informal settlement conferences, and refer cases to the State Office of Administrative Hearings for formal hearing. Staff must seek input from dentist Board members in cases of patient morbidity, professional conduct, or quality of care.

Senate Bill 263 also authorizes the Board to use cease-and-desist orders when it receives a complaint about or otherwise hears of an individual or entity, including dental labs, practicing dentistry without a license. The Board may still refer these cases to local law enforcement agencies for prosecution, but must count unauthorized practice cases as jurisdictional, and direct investigators to pursue and follow up with the unlicensed individual to ensure compliance.

The bill authorizes the Board to include restitution as part of an agreement in the settlement conference process. The legislation limits this authority to ordering a refund not to exceed the amount the patient paid to the dentist and specifies that any restitution order may not include an estimation of other damages or harm.

### **4. Improve Coordination Between the Board and the Health and Human Services Commission on Medicaid-Related Issues.**

To improve coordination on Medicaid-related issues, S.B. 263 requires the Board and the Health and Human Services Commission to enter into an interagency agreement requiring the two agencies to refer to each other cases involving Medicaid fraud and standard-of-care issues. The bill specifies that the two agencies must investigate cases together and collaborate on appropriate disciplinary action when possible. The Board also must include information on its Medicaid-related cases, such as the number received and disposition of cases, in its annual financial report.

**5. Expand the Board's Existing Regulation of Dental Assistants to Require Greater Competence by Those Who Take X-Rays.**

This provision builds upon existing registration requirements for dental assistants who take X-rays by requiring these assistants to pass an exam that also covers infection control techniques and state dental laws. Dental assistants must renew their registration annually and complete 12 hours of continuing education each year.

**6. Provide for Licensing Dental Educators Who Provide Dental Services at Accredited Dental or Dental Hygiene Schools in Texas.**

Senate Bill 263 requires dental educators who have direct contact with patients at accredited dental or dental hygiene schools in Texas, and who do not already hold a Texas dental or dental hygiene license, to pass a jurisprudence exam and register annually with the Board. The bill specifies that a faculty license does not authorize a dental or dental hygiene educator to enter into private practice.

**7. Reduce the Experience Requirement for Dental Licensure by Credentials.**

Senate Bill 263 reduces the years of practice required for dental licensure by credentials from five to three years. The bill also requires the Board to adopt rules specifying circumstances under which the Board may grant waivers to the continuous practice requirements for licensure by credentials.

**8. Require the Board to Establish a System for Expunging Groundless, Dismissed Complaints From Its Records.**

This provision requires the Board to establish, in rule, procedures for allowing a Board employee to expunge groundless, dismissed complaints from the Board's records. Staff must seek input from dentist Board members in cases of patient morbidity, professional conduct, or quality of care.

**9. Require the Board to Act on Recommendations Proposed by the Dental Hygiene Advisory Committee Within a Specified Time.**

The bill authorizes the Dental Hygiene Advisory Committee to make recommendations regarding the regulation of dental hygiene to the Board, and requires the Board to either deny or ratify and enforce the recommendations within 90 days. If the Board fails to take action on a recommendation from the advisory committee within that time, the recommendation becomes effective. If the Board must develop a rule based on a recommendation from the advisory committee, the advisory committee will still have 30 days for review and comment before the rule may be adopted.

**Provision Added by the Legislature** \_\_\_\_\_

**10. Simplify the Process by Which Licensees Provide Proof of CPR Requirements.**

The Legislature adopted a provision that repeals language requiring a dentist or dental hygienist, when renewing a license, to provide proof of CPR completion issued by the American Heart Association or the American Red Cross. Instead, S.B. 263 simply requires a licensee to include a written statement affirming that the license holder has completed a CPR course.

## Removed Provisions

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### 1. Require That at Least One Board Member Be an Oral Surgeon.

The Legislature did not adopt this Sunset recommendation requiring at least one of the eight dentist members on the Board to be an oral surgeon.

### 2. Establish a Process for Debt Forgiveness for Services by Dental Professionals in Rural or Underserved Areas.

The Legislature did not adopt this Sunset recommendation requiring the Board to study the issue of forgiveness of student loans for dental professionals who commit to work in underserved areas of the state.

## Fiscal Implication Summary

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The provisions regarding the State Board of Dental Examiners will result in a fiscal impact to the Board. However, the Board will adjust licensing fees to cover costs of implementing the bill, and as a result, S.B. 263 will not have an impact to the State. These provisions are discussed below, followed by a five-year summary chart.

Reducing the number of Board members from 18 to 15 will result in an annual savings to the General Revenue Fund of approximately \$5,800 due to reduced travel expenses for Board meetings and other Board business.

To accommodate expansion of the regulation of dental assistants, the Board will incur an initial cost of \$12,731 and an estimated increase of \$1,000 per year for data storage. The Board will also need to hire one additional clerk at \$27,132 per year to handle the increased workload associated with the new registrations.

Fiscal Year	Gain to the General Revenue Fund	Savings to the General Revenue Fund	Cost to the General Revenue Fund	Change in Staff Positions From 2003
2004	\$12,731	\$5,800	\$12,731	0
2005	\$28,132	\$5,800	\$28,132	+1
2006	\$28,132	\$5,800	\$28,132	+1
2007	\$28,132	\$5,800	\$28,132	+1
2008	\$28,132	\$5,800	\$28,132	+1

