

By: Fletcher

H.B. No. 3154

A BILL TO BE ENTITLED

AN ACT

relating to dental expert witness activity; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 258, Occupations Code, is amended by adding Section 258.056 to read as follows:

Sec. 258.056. DENTAL EXPERT WITNESS ACTIVITY. (a) In this section:

(1) "Dental expert witness activity" means:

(A) providing testimony or an opinion in connection with a health care liability claim or a disciplinary proceeding under this subtitle; or

(B) performing an activity, including practicing dentistry or dental hygiene, in preparation for an activity described by Paragraph (A).

(2) "Health care liability claim" has the meaning assigned by Section 74.001, Civil Practice and Remedies Code.

(b) A person, when performing a dental expert witness activity:

(1) shall:

(A) comply with the laws of this state;

(B) comply with ethical standards regarding expert witness testimony that are applicable to the person;

(C) uphold the standards of dental professionalism, including standards regarding ethical conduct and

1 competent practice;

2 (D) be honest in all professional interactions;

3 (E) avoid conflicts of interest or make efforts
4 to minimize unavoidable conflicts of interest; and

5 (F) accurately represent the person's
6 professional credentials and qualifications; and

7 (2) may not:

8 (A) provide testimony or give an opinion that
9 exceeds the limitations of the data on which the testimony or
10 opinion is based;

11 (B) give expert testimony or an expert opinion
12 that exceeds the limitations of the person's knowledge, skills,
13 experience, training, or education;

14 (C) accept payment for dental expert witness
15 activity that is contingent on the outcome of the health care
16 liability claim or disciplinary proceeding; or

17 (D) make or use any false, fraudulent, or forged
18 statement or document.

19 (c) The board is entitled to appropriate injunctive relief
20 to prevent a person from performing dental expert witness activity
21 in this state if the court determines the person has violated
22 Subsection (b).

23 (d) If the board determines that a person licensed in
24 another state as a dentist or dental hygienist has violated
25 Subsection (b), the board may refer the matter to the relevant
26 licensing authority in that state.

27 (e) A court may hold a person in contempt if the person

1 violates Subsection (b) in connection with a proceeding before the
2 court.

3 SECTION 2. Section 263.002(a), Occupations Code, is amended
4 to read as follows:

5 (a) The board, after notice and hearing, may reprimand a
6 person who holds a license issued under this subtitle, issue a
7 warning letter to a person licensed under this subtitle, impose a
8 fine on a person licensed under this subtitle, impose an
9 administrative penalty under Subchapter A, Chapter 264, on a person
10 who holds a license under this subtitle, place on probation with
11 conditions a person whose license has been suspended, or revoke or
12 suspend a person's license issued under this subtitle if the
13 person:

14 (1) is adjudged under the law to be insane;

15 (2) is convicted of a misdemeanor involving fraud or a
16 felony under federal law or the law of any state;

17 (3) practices dentistry or dental hygiene in a manner
18 that constitutes dishonorable conduct;

19 (4) fails to treat a patient according to the standard
20 of care in the practice of dentistry or dental hygiene;

21 (5) engages in deception or misrepresentation in
22 soliciting or obtaining patronage;

23 (6) obtains a license by fraud or misrepresentation;

24 (7) is addicted to or habitually intemperate in the
25 use of alcoholic beverages or drugs or has improperly obtained,
26 possessed, used, or distributed habit-forming drugs or narcotics;

27 (8) holds a dental license and employs, permits, or

1 has employed or permitted a person not licensed to practice
2 dentistry to practice dentistry in an office of the dentist that is
3 under the dentist's control or management;

4 (9) fails to use proper diligence in the person's
5 practice or fails to safeguard the person's patients against
6 avoidable infections;

7 (10) violates or refuses to comply with a law relating
8 to the regulation of dentists or dental hygienists;

9 (11) is physically or mentally incapable of practicing
10 in a manner that is safe for the person's dental patients;

11 (12) is negligent in performing dental services and
12 that negligence causes injury or damage to a dental patient;

13 (13) holds a license or certificate to practice
14 dentistry or dental hygiene in another state and that state, based
15 on an act by the person that is the same as an act described in this
16 section:

17 (A) reprimands the person;

18 (B) suspends or revokes the person's license or
19 certificate or places the person on probation; or

20 (C) imposes another restriction on the person's
21 practice; ~~or~~

22 (14) knowingly provides or agrees to provide dental
23 care in a manner that violates a federal or state law that:

24 (A) regulates a plan to provide, arrange for, pay
25 for, or reimburse any part of the cost of dental care services; or

26 (B) regulates the business of insurance; or

27 (15) provides dental expert witness activity in

1 violation of Section 258.056(b).

2 SECTION 3. The changes in law made by this Act apply only to
3 conduct that occurs on or after the effective date of this Act.
4 Conduct that occurred before that date is governed by the law in
5 effect when the conduct occurred, and the former law is continued in
6 effect for that purpose.

7 SECTION 4. This Act takes effect September 1, 2015.