

SECOND REGULAR SESSION

# HOUSE BILL NO. 970

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES PORTWOOD (Sponsor), AVERY, SCHOEMEHL, SPRENG,  
SCHAAF, STEFANICK, MOORE, PAGE, WRIGHT, QUINN AND RUESTMAN (Co-sponsors).

Read 1<sup>st</sup> time January 8, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3406L.011

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### 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 dentists and dental hygienists.

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*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2 repealed and five new sections enacted in lieu thereof, to be known as sections 332.069, 332.171,  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 or entity not licensed to practice dentistry in Missouri shall  
2 not engage in the practice of dentistry, as defined in section 332.171, across state lines  
3 except as provided in this section.**

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

5 **(1) The rendering of any written or otherwise documented dental opinion  
6 concerning the diagnosis or treatment of a patient within this state by a dentist located  
7 outside this state as a result of transmission of individual patient data by electronic,  
8 telephonic, or other means from within this state or any other state to such dentist or  
9 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 this state shall not be required to obtain a license in this  
15 state when:**

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 proposed language.

16           **(1) A consultation is requested by a licensed dentist in this state who retains**  
17 **ultimate authority and responsibility for the diagnosis or treatment of a patient located**  
18 **within this state; and**

19           **(2) The consultation request is not due to a contractual agreement to authorize or**  
20 **request consultations from a person or entity not licensed to practice dentistry in Missouri;**  
21 **or**

22           **(3) Evaluating a patient or rendering an oral, written, or otherwise documented**  
23 **dental opinion when providing testimony or records for the purpose of any civil or criminal**  
24 **action before any judicial or administrative proceeding of this state or other forum in this**  
25 **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 such application shall be accompanied by the required  
5 [specialty] fee.

6           2. Any [registered and] currently licensed dentist in Missouri who **has completed a**  
7 **dental specialty program accredited by the Council on Dental Accreditation but** is not  
8 eligible [to apply] **for specialty licensure** under subsection 1 [above] **of this section**, may apply  
9 to the board for [certification] **specialty licensure** in one of the [special areas approved]  
10 **specialty areas recognized** by the American Dental Association [for specialty practice]. Each  
11 such application shall be accompanied by the required [specialty] fee. The board shall establish  
12 by rule the minimum requirements for specialty [certification] **licensure** under this subsection.  
13 **The board shall issue a specialty license to an applicant under this subsection if the**  
14 **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 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 **such license under sections 332.131 and 332.181, or under section 332.211;**

31 **(2) The applicant meets the educational requirements for specialty licensure**  
32 **required of original applicants for specialty licensure in the state of Missouri as required**  
33 **in subsections 1 and 2 of this section;**

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

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

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

48 6. [The board shall issue to each applicant who has been recommended as qualified by  
49 the examining committee, as provided in subsection 3 of this section, a certificate of registration  
50 to practice dentistry in the specialty in which he has been so recommended.

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

55 (1) Applicant must either currently hold a Missouri license to practice dentistry or obtain  
56 one through the provisions of sections 332.131 and 332.181, or through the provisions of section  
57 332.211;

58 (2) Applicant must have taken and passed an examination equivalent to that given in  
59 Missouri and have been granted a specialty license in another state. It is the obligation of the  
60 applicant to provide proper documentation which must include the content and grades received  
61 in each portion of the examination and be certified by the state which administered the  
62 examination. Determination as to whether an examination taken in another state is equivalent

63 to that given in Missouri will be made by the current Missouri specialty examining committee  
64 in the appropriate specialty area;

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

68 8. All such certificates shall be subject to revocation and suspension for the causes set  
69 forth in section 332.321 and each certificate holder shall renew his regular license as provided  
70 in section 332.181 and shall pay the regular renewal fee provided therefor and shall also renew  
71 his specialty license and shall pay a specialty renewal fee] **All specialty licenses shall be subject  
72 to discipline for cause as set forth in section 332.321, and each specialty license holder shall  
73 renew his or her specialty license or licenses as provided for in section 332.181 and shall  
74 pay the renewal fee provided therefore.**

75 **7. The board shall issue to each applicant who has been recommended as qualified  
76 by the specialty committee, as provided in subsection 4 of this section, a license to practice  
77 dentistry in the specialty for which he or 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  
15 satisfactory evidence of completion of fifty hours of continuing education during the two-  
16 year period immediately preceding the renewal period. Each dentist shall maintain  
17 documentation of completion of the required continuing education hours as provided by  
18 rule. Failure to obtain the required continuing education hours, submit satisfactory  
19 evidence, or maintain documentation is a violation of section 332.321. As provided by rule,  
20 the board may waive and/or extend the time requirements for completion of continuing  
21 education [up to six months] for reasons related to health, military service, foreign residency or**

22 for other good cause. All requests for **waivers and/or** extensions of time shall be made in  
23 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.

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

41         7. A currently licensed dentist in Missouri who does not maintain a practice in this state  
42 or does not reside in this state may apply to the board to be placed on an out-of-state licensee list  
43 of dentists. Any dentist applying to be so licensed shall accompany his or her application with  
44 a fee not greater than the licensure fee for a licensee who maintains a practice in this state or who  
45 resides in this state. The required fee shall be established by the board, by rule, as with other  
46 licensing fees]. **To renew an expired license, the person shall submit an application for  
47 renewal, pay the renewal fee and renewal penalty fee as set by rule, and submit satisfactory  
48 evidence of completion of at least fifty hours of continuing education for each renewal  
49 period that his or her license was expired as provided by rule. The required hours must  
50 be obtained within four years prior to renewal. The license of any dentist who fails to  
51 renew within four years of the time his or her license has expired shall be void. The dentist  
52 may apply for a new license; provided that, unless application is made under section  
53 332.321, the dentist shall pay the same fees and be examined in the same manner as an  
54 original applicant for licensure as a dentist.**

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 and/or** extend  
22 the 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 and/or** extensions of time shall be made in writing and submitted to the board before  
25 the renewal date. [The board may waive the requirements for continuing education for retired  
26 or 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.

31         6. The license of any dental hygienist who fails to renew within four years of the time  
32 that his or her license expired shall be void. The dental hygienist may apply for a new license,  
33 provided that, unless application is made pursuant to section 332.281, he or she shall pay the  
34 same fees and be examined in the same manner as an original applicant for licensure as a dental  
35 hygienist. A currently licensed dental hygienist in Missouri may apply to the board to be placed  
36 on an inactive list of dental hygienists, and during the time his or her name remains on the  
37 inactive list, he or she shall not practice as a dental hygienist. If a dental hygienist wishes to be  
38 removed from the inactive list, unless he or she applies pursuant to section 332.281, he or she  
39 shall apply for a current license and pay the license fees for the years between the date of the

40 entry of his or her name on the inactive list and the date of issuance of his or her current license.  
41 If the dental hygienist has been on the inactive list for more than four years, he or she shall be  
42 examined in the same manner as an original applicant for licensure as a dental hygienist.

43 7. A currently licensed dental hygienist in Missouri who does not practice in this state  
44 or who does not reside in this state may apply to the board to be placed on an out-of-state  
45 registration list of dental hygienists. Any dental hygienist applying to be so licensed shall  
46 accompany his or her application with a fee not greater than the license fee for a licensee who  
47 practices in this state or resides in this state. The required fee shall be established by the board,  
48 by rule, as with other licensing fees]. **To renew an expired license, the person shall submit**  
49 **an application for renewal, pay the renewal fee and renewal penalty fee as set by rule, and**  
50 **submit satisfactory evidence of completion of at least thirty hours of continuing education**  
51 **for each renewal period that his or her license was expired as provided by rule. The**  
52 **required hours must be obtained within four years prior to renewal. The license of any**  
53 **dental hygienist who fails to renew within four years of the time his or her license has**  
54 **expired shall be void. The dental hygienist may reapply for a license; provided that, unless**  
55 **application is made under section 332.281, the dental hygienist shall pay the same fees and**  
56 **be examined in the same manner as an original applicant for licensure as a dental**  
57 **hygienist.**

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

184 **6. If the administrative hearing commission dismisses without prejudice the**  
185 **complaint filed by the board under 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.

5. The provisions of this section shall not be so construed as to prevent the

38 board on its own initiative from instituting and conducting investigations and based  
39 thereon to make written complaints in and to the hearing commission.

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