

State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2041

02/01/2012 Authored by Abeler, Kiffmeyer and Liebling

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to health; making changes to dental licensing provisions; amending
1.3 Minnesota Statutes 2010, sections 150A.06, subdivisions 1c, 3, 4, 6, by adding
1.4 a subdivision; 150A.09, subdivision 3; 150A.091, subdivisions 2, 3, 4, 5, 8,
1.5 by adding a subdivision; 150A.105, subdivision 7; 150A.106, subdivision 1;
1.6 150A.14.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2010, section 150A.06, subdivision 1c, is amended to
1.9 read:

1.10 Subd. 1c. **Specialty dentists.** (a) The board may grant a specialty license in the
1.11 specialty areas of dentistry that are recognized by the American Dental Association.

1.12 (b) An applicant for a specialty license shall:

1.13 (1) have successfully completed a postdoctoral specialty education program
1.14 accredited by the Commission on Dental Accreditation of the American Dental
1.15 Association, or have announced a limitation of practice before 1967;

1.16 (2) have been certified by a specialty examining board approved by the Minnesota
1.17 Board of Dentistry, or provide evidence of having passed a clinical examination for
1.18 licensure required for practice in any state or Canadian province, or in the case of oral and
1.19 maxillofacial surgeons only, have a Minnesota medical license in good standing;

1.20 (3) have been in active practice or a postdoctoral specialty education program or
1.21 United States government service at least 2,000 hours in the 36 months prior to applying
1.22 for a specialty license;

1.23 (4) if requested by the board, be interviewed by a committee of the board, which
1.24 may include the assistance of specialists in the evaluation process, and satisfactorily

respond to questions designed to determine the applicant's knowledge of dental subjects and ability to practice;

(5) if requested by the board, present complete records on a sample of patients treated by the applicant. The sample must be drawn from patients treated by the applicant during the 36 months preceding the date of application. The number of records shall be established by the board. The records shall be reasonably representative of the treatment typically provided by the applicant;

(6) at board discretion, pass a board-approved English proficiency test if English is not the applicant's primary language;

(7) pass all components of the National ~~Dental~~ Board Dental Examinations;

(8) pass the Minnesota Board of Dentistry jurisprudence examination;

(9) abide by professional ethical conduct requirements; and

(10) meet all other requirements prescribed by the Board of Dentistry.

(c) The application must include:

(1) a completed application furnished by the board;

(2) at least two character references from two different dentists, one of whom must be a dentist practicing in the same specialty area, and the other the director of the specialty program attended;

(3) a licensed physician's statement attesting to the applicant's physical and mental condition;

(4) a statement from a licensed ophthalmologist or optometrist attesting to the applicant's visual acuity;

(5) a nonrefundable fee; and

(6) a notarized, unmounted passport-type photograph, three inches by three inches, taken not more than six months before the date of application.

(d) A specialty dentist holding a specialty license is limited to practicing in the dentist's designated specialty area. The scope of practice must be defined by each national specialty board recognized by the American Dental Association.

(e) A specialty dentist holding a general dentist license is limited to practicing in the dentist's designated specialty area if the dentist has announced a limitation of practice. The scope of practice must be defined by each national specialty board recognized by the American Dental Association.

(f) All specialty dentists who have fulfilled the specialty dentist requirements and who intend to limit their practice to a particular specialty area may apply for a specialty license.

3.1 Sec. 2. Minnesota Statutes 2010, section 150A.06, subdivision 3, is amended to read:

3.2 Subd. 3. **Waiver of examination.** (a) All or any part of the examination for dentists
3.3 or dental hygienists, except that pertaining to the law of Minnesota relating to dentistry
3.4 and the rules of the board, may, at the discretion of the board, be waived for an applicant
3.5 who presents a certificate of ~~qualification from~~ having passed all components of the
3.6 National Board of Dental Examiners Examinations or evidence of having maintained an
3.7 adequate scholastic standing as determined by the board, in dental school as to dentists, or
3.8 dental hygiene school as to dental hygienists.

3.9 (b) The board shall waive the clinical examination required for licensure for any
3.10 dentist applicant who is a graduate of a dental school accredited by the Commission
3.11 on Dental Accreditation of the American Dental Association, who has ~~successfully~~
3.12 ~~completed~~ passed all components of the ~~National Dental Board Examination~~ Dental
3.13 Examinations, and who has satisfactorily completed a Minnesota-based postdoctoral
3.14 general dentistry residency program (GPR) or an advanced education in general dentistry
3.15 (AEGD) program after January 1, 2004. The postdoctoral program must be accredited
3.16 by the Commission on Dental Accreditation of the American Dental Association, be of
3.17 at least one year's duration, and include an outcome assessment evaluation assessing
3.18 the resident's competence to practice dentistry. The board may require the applicant to
3.19 submit any information deemed necessary by the board to determine whether the waiver is
3.20 applicable. The board may waive the clinical examination for an applicant who meets the
3.21 requirements of this paragraph and has satisfactorily completed an accredited postdoctoral
3.22 general dentistry residency program located outside of Minnesota.

3.23 Sec. 3. Minnesota Statutes 2010, section 150A.06, subdivision 4, is amended to read:

3.24 Subd. 4. **Licensure by credentials.** (a) Any dentist or dental hygienist may, upon
3.25 application and payment of a fee established by the board, apply for licensure based on
3.26 the applicant's performance record in lieu of passing an examination approved by the
3.27 board according to section 150A.03, subdivision 1, and be interviewed by the board to
3.28 determine if the applicant:

3.29 (1) has passed all components of the National Board Dental Examinations;

3.30 ~~(1)~~ (2) has been in active practice at least 2,000 hours within 36 months of the
3.31 application date, or passed a board-approved reentry program within 36 months of the
3.32 application date;

3.33 ~~(2)~~ (3) currently has a license in another state or Canadian province and is not subject
3.34 to any pending or final disciplinary action, or if not currently licensed, previously had a

license in another state or Canadian province in good standing that was not subject to any final or pending disciplinary action at the time of surrender;

~~(3)~~ (4) is of good moral character and abides by professional ethical conduct requirements;

~~(4)~~ (5) at board discretion, has passed a board-approved English proficiency test if English is not the applicant's primary language; and

~~(5)~~ (6) meets other credentialing requirements specified in board rule.

(b) An applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for licensure under subdivision 1 or 2 must be licensed to practice the applicant's profession.

(c) If the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivision 1 or 2, the application must be denied. When denying a license, the board may notify the applicant of any specific remedy that the applicant could take which, when passed, would qualify the applicant for licensure. A denial does not prohibit the applicant from applying for licensure under subdivision 1 or 2.

(d) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Sec. 4. Minnesota Statutes 2010, section 150A.06, subdivision 6, is amended to read:

Subd. 6. **Display of name and certificates.** (a) The initial license and subsequent renewal, or current registration certificate, of every dentist, a dental therapist, dental hygienist, or dental assistant shall be conspicuously displayed in every office in which that person practices, in plain sight of patients. When available from the board, the board shall allow the display of a wallet-sized initial license and wallet-sized subsequent renewal certificate only at nonprimary practice locations instead of displaying an original-sized initial license and subsequent renewal certificate.

(b) Near or on the entrance door to every office where dentistry is practiced, the name of each dentist practicing there, as inscribed on the current license certificate, shall be displayed in plain sight.

Sec. 5. Minnesota Statutes 2010, section 150A.06, is amended by adding a subdivision to read:

Subd. 10. **Criminal history record checks.** (a) An applicant for initial licensure under this section and an applicant for reinstatement of licensure under Minnesota Rules, part 3100.1850, shall submit to a criminal history records check of state data, regardless of the data classification, completed by the Minnesota Bureau of Criminal Apprehension

5.1 and a national criminal history records check to include a search of the records of the
5.2 Federal Bureau of Investigation.

5.3 (b) An applicant shall submit a completed, notarized criminal history records check
5.4 consent form and fingerprints to the Minnesota Bureau of Criminal Apprehension and
5.5 comply with the following requirements:

5.6 (1) request and consent to a criminal history records check of state data, regardless
5.7 of the data classification;

5.8 (2) request and consent to a national criminal history records check;

5.9 (3) submit to fingerprinting in a form acceptable to the board either with the
5.10 Minnesota Bureau of Criminal Apprehension or a local law enforcement agency including
5.11 a verification form;

5.12 (4) pay the required fees for fingerprinting and completion of the criminal history
5.13 records checks by the Minnesota Bureau of Criminal Apprehension and the Federal
5.14 Bureau of Investigation; and

5.15 (5) request that the criminal history check results from both the Minnesota Bureau of
5.16 Criminal Apprehension and the Federal Bureau of Investigation be sent directly to the
5.17 board and, if necessary, the applicant shall provide the Minnesota Bureau of Criminal
5.18 Apprehension with a stamped envelope having the board's name and address.

5.19 (c) The board shall maintain the criminal history records check reports in a manner
5.20 that ensures the confidentiality of the results as private data, prevents disclosure pursuant
5.21 to a public records request, and complies with applicable state and federal requirements.

5.22 (d) The board shall not accept the results of a criminal history records check
5.23 submitted by an entity other than the Minnesota Bureau of Criminal Apprehension.

5.24 (c) In reviewing the results of criminal history records checks to determine whether
5.25 the applicant should be granted an initial or reinstated license to practice, the board may
5.26 consider all of the following:

5.27 (1) the nature and seriousness of the crime;

5.28 (2) the extent of the applicant's past criminal activity;

5.29 (3) the age of the applicant when the crime was committed;

5.30 (4) the amount of time that has elapsed since the applicant's last criminal activity;

5.31 (5) the conduct and work activity of the applicant before and after the criminal
5.32 activity;

5.33 (6) whether the applicant has completed the terms of any probation or deferred
5.34 adjudication;

5.35 (7) evidence of the applicant's rehabilitation;

5.36 (8) whether the applicant fully disclosed the arrest or conviction to the board; and

6.1 (9) any other factors the board considers relevant.

6.2 (f) The board shall not grant a license to an applicant for an initial license issued
6.3 under this section or for a reinstated license under Minnesota Rules, part 3100.1850,
6.4 unless the applicant complies with this subdivision.

6.5 (g) If a criminal history records check indicates that an applicant has engaged in
6.6 criminal behavior, the board may take action according to sections 214.10 and 214.103.

6.7 Sec. 6. Minnesota Statutes 2010, section 150A.09, subdivision 3, is amended to read:

6.8 Subd. 3. **Current address, change of address.** Every dentist, dental therapist,
6.9 dental hygienist, and dental assistant shall maintain with the board a correct and current
6.10 mailing address and electronic mail address. For dentists engaged in the practice of
6.11 dentistry, the postal address shall be that of the location of the primary dental practice.
6.12 Within 30 days after changing postal or electronic mail addresses, every dentist, dental
6.13 therapist, dental hygienist, and dental assistant shall provide the board written notice of
6.14 the new address either personally or by first class mail.

6.15 Sec. 7. Minnesota Statutes 2010, section 150A.091, subdivision 2, is amended to read:

6.16 Subd. 2. **Application fees.** Each applicant shall submit with a license, advanced
6.17 dental therapist certificate, or permit application a nonrefundable fee in the following
6.18 amounts in order to administratively process an application:

- 6.19 (1) dentist, \$140;
6.20 (2) full faculty dentist, \$140;
6.21 ~~(2)~~ (3) limited faculty dentist, \$140;
6.22 ~~(3)~~ (4) resident dentist or dental provider, \$55;
6.23 (5) advanced dental therapist, \$100;
6.24 ~~(4)~~ (6) dental therapist, \$100;
6.25 ~~(5)~~ (7) dental hygienist, \$55;
6.26 ~~(6)~~ (8) licensed dental assistant, \$55; and
6.27 ~~(7)~~ (9) dental assistant with a permit as described in Minnesota Rules, part
6.28 3100.8500, subpart 3, \$15.

6.29 Sec. 8. Minnesota Statutes 2010, section 150A.091, subdivision 3, is amended to read:

6.30 Subd. 3. **Initial license or permit fees.** Along with the application fee, each of the
6.31 following applicants shall submit a separate prorated initial license or permit fee. The
6.32 prorated initial fee shall be established by the board based on the number of months of the

applicant's initial term as described in Minnesota Rules, part 3100.1700, subpart 1a, not to exceed the following monthly fee amounts:

- (1) dentist or full faculty dentist, \$14 times the number of months of the initial term;
- (2) dental therapist, \$10 times the number of months of the initial term;
- (3) dental hygienist, \$5 times the number of months of the initial term;
- (4) licensed dental assistant, \$3 times the number of months of the initial term; and
- (5) dental assistant with a permit as described in Minnesota Rules, part 3100.8500, subpart 3, \$1 times the number of months of the initial term.

Sec. 9. Minnesota Statutes 2010, section 150A.091, subdivision 4, is amended to read:

Subd. 4. **Annual license fees.** Each limited faculty or resident dentist shall submit with an annual license renewal application a fee established by the board not to exceed the following amounts:

- (1) limited faculty dentist, \$168; and
- (2) resident dentist or dental provider, \$59.

Sec. 10. Minnesota Statutes 2010, section 150A.091, subdivision 5, is amended to read:

Subd. 5. **Biennial license or permit fees.** Each of the following applicants shall submit with a biennial license or permit renewal application a fee as established by the board, not to exceed the following amounts:

- (1) dentist or full faculty dentist, \$336;
- (2) dental therapist, \$180;
- (3) dental hygienist, \$118;
- (4) licensed dental assistant, \$80; and
- (5) dental assistant with a permit as described in Minnesota Rules, part 3100.8500, subpart 3, \$24.

Sec. 11. Minnesota Statutes 2010, section 150A.091, subdivision 8, is amended to read:

Subd. 8. **Duplicate license or certificate fee.** Each applicant shall submit, with a request for issuance of a duplicate of the original license, or of an annual or biennial renewal certificate for a license or permit, a fee in the following amounts:

- (1) original dentist, full faculty dentist, dental therapist, dental hygiene, or dental assistant license, \$35; and
- (2) annual or biennial renewal certificates, \$10.

8.1 Sec. 12. Minnesota Statutes 2010, section 150A.091, is amended by adding a
8.2 subdivision to read:

8.3 Subd. 16. **Failure of professional development portfolio audit** A licensee shall
8.4 submit a fee as established by the board not to exceed the amount of \$250 after failing
8.5 two consecutive professional development portfolio audits thereafter for each failed
8.6 professional development portfolio audit under Minnesota Rules, part 3100.5300.

8.7 Sec. 13. Minnesota Statutes 2010, section 150A.105, subdivision 7, is amended to read:

8.8 Subd. 7. **Use of dental assistants.** (a) A licensed dental therapist may supervise
8.9 dental assistants to the extent permitted in the collaborative management agreement and
8.10 according to section 150A.10, subdivision 2.

8.11 (b) Notwithstanding paragraph (a), a licensed dental therapist is limited to
8.12 supervising no more than four ~~registered~~ licensed dental assistants or ~~nonregistered~~
8.13 nonlicensed dental assistants at any one practice setting.

8.14 Sec. 14. Minnesota Statutes 2010, section 150A.106, subdivision 1, is amended to read:

8.15 Subdivision 1. **General.** In order to be certified by the board to practice as an
8.16 advanced dental therapist, a person must:

- 8.17 (1) complete a dental therapy education program;
- 8.18 (2) pass an examination to demonstrate competency under the dental therapy scope
8.19 of practice;
- 8.20 (3) be licensed as a dental therapist;
- 8.21 (4) complete 2,000 hours of dental therapy clinical practice under direct or indirect
8.22 supervision;
- 8.23 (5) graduate from a master's advanced dental therapy education program;
- 8.24 (6) pass a board-approved certification examination to demonstrate competency
8.25 under the advanced scope of practice; and
- 8.26 (7) submit an application and fee for certification as prescribed by the board.

8.27 Sec. 15. Minnesota Statutes 2010, section 150A.14, is amended to read:

8.28 **150A.14 IMMUNITY.**

8.29 Subdivision 1. **Reporting immunity.** A person, health care facility, business, or
8.30 organization is immune from civil liability or criminal prosecution for submitting a report
8.31 in good faith to the board under section 150A.13, or for cooperating with an investigation
8.32 of a report or with staff of the board relative to violations or alleged violations of section

9.1 150A.08. Reports are confidential data on individuals under section 13.02, subdivision 3,
9.2 and are privileged communications.

9.3 Subd. 2. **Program Investigation immunity.** (a) Members of the board, persons
9.4 employed by the board, and board consultants retained by the board are immune from
9.5 civil liability and criminal prosecution for any actions, transactions, or publications in
9.6 the execution of, or relating to, their duties under ~~section 150A.13~~ sections 150A.02 to
9.7 150A.21, 214.10, and 214.103.

9.8 (b) For purposes of this section, a member of the board or a consultant described in
9.9 paragraph (a) is considered a state employee under section 3.736, subdivision 9.