

AN ACT

To amend sections 2305.234, 3701.262, 4715.02, 4715.03, 4715.12, 4715.13, 4715.14, 4715.16, 4715.23, 4715.24, and 4715.39, to enact new sections 4715.10 and 4715.11 and sections 3702.85 to 3702.95, and to repeal sections 4715.10, 4715.11, and 4715.15 of the Revised Code to make changes to the State Dental Board, to establish the dentist loan repayment program, to make other changes to the laws governing dentists, dental hygienists, and dental assistants, and to amend the version of section 2305.234 of the Revised Code that is scheduled to take effect January 1, 2004, to continue the provisions of this act on and after that effective date.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 2305.234, 3701.262, 4715.02, 4715.03, 4715.12, 4715.13, 4715.14, 4715.16, 4715.23, 4715.24, and 4715.39 be amended and new sections 4715.10 and 4715.11 and sections 3702.85, 3702.86, 3702.87, 3702.88, 3702.89, 3702.90, 3702.91, 3702.92, 3702.93, 3702.94, and 3702.95 of the Revised Code be enacted to read as follows:

Sec. 2305.234. (A) As used in this section:

(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.113 of the Revised Code.

(2) "Dental claim" has the same meaning as in section 2305.113 of the Revised Code, except that it does not include any claim arising out of a dental operation or any derivative claim for relief that arises out of a dental operation.

(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.

(4) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(a) Physicians authorized under Chapter 4731. of the Revised Code to

practice medicine and surgery or osteopathic medicine and surgery;

(b) Registered nurses, advanced practice nurses, and licensed practical nurses licensed under Chapter 4723. of the Revised Code;

(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;

(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;

(e) Physical therapists licensed under Chapter 4755. of the Revised Code;

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;

(g) Optometrists licensed under Chapter 4725. of the Revised Code;

(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;

(i) Dietitians licensed under Chapter 4759. of the Revised Code;

(j) Pharmacists licensed under Chapter 4729. of the Revised Code;

(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code.

(5) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.

(6) "Indigent and uninsured person" means a person who meets all of the following requirements:

(a) The person's income is not greater than one hundred fifty per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended.

(b) The person is not eligible to receive medical assistance under Chapter 5111., disability assistance medical assistance under Chapter 5115. of the Revised Code, or assistance under any other governmental health care program.

(c) Either of the following applies:

(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.

(ii) The person is a policyholder, certificate holder, insured, contract

holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(7) "Operation" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, or the removal of intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection. "Operation" does not include routine dental restorative procedures, the scaling of teeth, or extractions of teeth that are not impacted.

(8) "Nonprofit shelter or health care facility" means a charitable nonprofit corporation organized and operated pursuant to Chapter 1702. of the Revised Code, or any charitable organization not organized and not operated for profit, that provides shelter, health care services, or shelter and health care services to indigent and uninsured persons, except that "shelter or health care facility" does not include a hospital as defined in section 3727.01 of the Revised Code, a facility licensed under Chapter 3721. of the Revised Code, or a medical facility that is operated for profit.

(9) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons or government entities.

(10) "Volunteer" means an individual who provides any medical, dental, or other health-care related diagnosis, care, or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any shelter or health care facility, or any other person or government entity.

(B)(1) Subject to divisions (E) and (F)(3) of this section, a health care professional who is a volunteer and complies with division (B)(2) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the volunteer in the provision at a nonprofit shelter or health care facility to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, including the provision of samples of medicine and other medical products, unless the action or omission constitutes willful or wanton

misconduct.

(2) To qualify for the immunity described in division (B)(1) of this section, a health care professional shall do all of the following prior to providing diagnosis, care, or treatment:

(a) Determine, in good faith, that the indigent and uninsured person is mentally capable of giving informed consent to the provision of the diagnosis, care, or treatment and is not subject to duress or under undue influence;

(b) Inform the person of the provisions of this section;

(c) Obtain the informed consent of the person and a written waiver, signed by the person or by another individual on behalf of and in the presence of the person, that states that the person is mentally competent to give informed consent and, without being subject to duress or under undue influence, gives informed consent to the provision of the diagnosis, care, or treatment subject to the provisions of this section.

(3) A physician or podiatrist who is not covered by medical malpractice insurance, but complies with division (B)(2) of this section, is not required to comply with division (A) of section 4731.143 of the Revised Code.

(C) Subject to divisions (E) and (F)(3) of this section, health care workers who are volunteers are not liable in damages to any person or government entity in a tort or other civil action, including an action upon a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care worker in the provision at a nonprofit shelter or health care facility to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, unless the action or omission constitutes willful or wanton misconduct.

(D) Subject to divisions (E) and (F)(3) of this section and section 3701.071 of the Revised Code, a nonprofit shelter or health care facility associated with a health care professional described in division (B)(1) of this section or a health care worker described in division (C) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care professional or worker in providing for the shelter or facility medical, dental, or other health-related diagnosis, care, or treatment to an indigent and uninsured person, unless the action or omission constitutes willful or wanton misconduct.

(E)(1) Except as provided in division (E)(2) of this section, the

immunities provided by divisions (B), (C), and (D) of this section are not available to an individual or to a nonprofit shelter or health care facility if, at the time of an alleged injury, death, or loss to person or property, the individuals involved are providing one of the following:

(a) Any medical, dental, or other health-related diagnosis, care, or treatment pursuant to a community service work order entered by a court under division (F) of section 2951.02 of the Revised Code as a condition of probation or other suspension of a term of imprisonment or imposed by a court as a community control sanction pursuant to sections 2929.15 and 2929.17 of the Revised Code.

(b) Performance of an operation.

(c) Delivery of a baby.

(2) Division (E)(1) of this section does not apply to an individual who provides, or a nonprofit shelter or health care facility at which the individual provides, diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency.

(F)(1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, or nonprofit shelter or health care facility.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which an individual or a nonprofit shelter or health care facility may be entitled in connection with the provision of emergency or other diagnosis, care, or treatment.

(3) This section does not grant an immunity from tort or other civil liability to an individual or a nonprofit shelter or health care facility for actions that are outside the scope of authority of health care professionals or health care workers.

(4) This section does not affect any legal responsibility of a health care professional or health care worker to comply with any applicable law of this state or rule of an agency of this state.

(5) This section does not affect any legal responsibility of a nonprofit shelter or health care facility to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution, sanitation, health, fire, zoning, or safety.

Sec. 3701.262. (A) As used in this section and section 3701.263 of the Revised Code:

(1) "Physician" means a person who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice

medicine or surgery or osteopathic medicine and surgery.

(2) "Dentist" means a person who is licensed under ~~section 4715.12 or 4715.15~~ Chapter 4715. of the Revised Code to practice dentistry.

(3) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(4) "Cancer" includes those diseases specified by rule of the director of health under division (B)(2) of this section.

(B) The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following:

(1) Establish the Ohio cancer incidence surveillance system required by section 3701.261 of the Revised Code;

(2) Specify the types of cancer and other tumorous and precancerous diseases to be reported to the department of health under division (D) of this section;

(3) Establish reporting requirements for information concerning diagnosed cancer cases as the director considers necessary to conduct epidemiologic surveys of cancer in this state;

(4) Establish standards that must be met by research projects to be eligible to receive information from the department of health under division (B) of section 3701.263 of the Revised Code.

(C) The department of health shall record in the registry all reports of cancer received by it. In the development and administration of the cancer registry the department may use information compiled by public or private cancer registries and may contract for the collection and analysis of, and research related to, the information recorded under this section.

(D) Each physician, dentist, hospital, or person providing diagnostic or treatment services to patients with cancer shall report each case of cancer to the department. Any person required to report pursuant to this section may elect to report to the department through an existing cancer registry if the registry meets the reporting standards established by the director and reports to the department.

(E) All physicians, dentists, hospitals, or persons providing diagnostic or treatment services to patients with cancer shall grant to the department or its authorized representative access to all records that identify cases of cancer or establish characteristics of cancer, the treatment of cancer, or the medical status of any identified cancer patient.

(F) The Arthur G. James and Richard J. Solove research institute of the Ohio state university, shall analyze and evaluate the cancer reports collected pursuant to this section. The department shall publish and make available to the public reports summarizing the information collected. Reports shall be

made on a calendar year basis and published not later than ninety days after the end of each calendar year.

(G) Furnishing information, including records, reports, statements, notes, memoranda, or other information, to the department of health, either voluntarily or as required by this section, or to a person or governmental entity designated as a medical research project by the department, does not subject a physician, dentist, hospital, or person providing diagnostic or treatment services to patients with cancer to liability in an action for damages or other relief for furnishing the information.

(H) This section does not affect the authority of any person or facility providing diagnostic or treatment services to patients with cancer to maintain facility-based tumor registries, in addition to complying with the reporting requirements of this section.

(I) No person shall fail to make the cancer reports required by division (D) of this section.

Sec. 3702.85. There is hereby created the dentist loan repayment program, which shall be administered by the department of health in cooperation with the board of regents and the dentist loan repayment advisory board. The program shall provide loan repayment on behalf of individuals who agree to provide dental services in areas designated as dental health resource shortage areas by the director of health pursuant to section 3702.87 of the Revised Code.

Under the program, the Ohio board of regents, by means of a contract entered into under section 3702.91 of the Revised Code, may agree to repay all or part of the principal and interest of a government or other educational loan taken by an individual for the following expenses incurred while the individual was enrolled in an accredited dental college or a dental college located outside of the United States that meets the standards of section 4715.11 of the Revised Code:

(A) Tuition;

(B) Other educational expenses, such as fees, books, and laboratory expenses that are for purposes and in amounts determined reasonable by the director of health;

(C) Room and board, in an amount determined reasonable by the director of health.

Sec. 3702.86. The director of health, in accordance with Chapter 119. of the Revised Code, shall adopt rules as necessary to implement and administer sections 3702.85 to 3702.95 of the Revised Code. In preparing rules, the director shall consult with the Ohio board of regents and the dentist loan repayment advisory board.

Sec. 3702.87. The director of health shall designate, as dental health resource shortage areas, areas in this state that experience special dental health problems and dentist practice patterns that limit access to dental care. The designations shall be made by rule and may apply to a geographic area, one or more facilities within a particular area, or a population group within a particular area.

Sec. 3702.88. The director of health, by rule, shall establish priorities among dental health resource shortage areas for use in recruiting dentists to sites within particular areas under the dentist loan repayment program. In establishing priorities, the director shall consider the ratio of dentists to the population in the dental health resource shortage area, the distance to dentists outside the area, dental health status indicators of the target population in the area, presence of dental health care provider sites in the area with vacancies for dentists, availability of an eligible candidate interested in being recruited to a particular site within an area, and the distribution of dental health care provider sites in urban and rural regions. The director shall give greatest priority to dental health resource shortage areas having a high ratio of population to dentists.

The director, by rule, shall establish priorities for use in determining eligibility among applicants for participation in the dentist loan repayment program. The priorities may include consideration of an applicant's background and career goals, the length of time the applicant is willing to provide dental services in a dental health care resource shortage area, and the amount of the educational expenses for which reimbursement is being sought through the program.

Sec. 3702.89. (A) An individual who has not received national health service corps tuition or student loan repayment assistance and meets one of the following requirements may apply for participation in the dentist loan repayment program:

(1) The applicant is a dental student enrolled in the final year of dental college.

(2) The applicant is a dental resident in the final year of residency.

(3) The applicant has been engaged in the practice of dentistry in this state for not more than three years prior to submitting the application.

(B) An application for participation in the dentist loan repayment program shall be submitted to the director of health on a form the director shall prescribe. The following information shall be included or supplied:

(1) The applicant's name, permanent address or address at which the applicant is currently residing if different from the permanent address, and telephone number;

(2) The dental college the applicant is attending or attended, dates of attendance, and verification of attendance;

(3) If the applicant is a dental resident, the facility or institution at which the dental residency is being performed;

(4) A summary and verification of the educational expenses for which the applicant seeks reimbursement under the program;

(5) If the applicant is a dentist, verification of the applicant's license issued under Chapter 4715. of the Revised Code to practice dentistry and proof of good standing;

(6) Verification of the applicant's United States citizenship or status as a legal alien.

Sec. 3702.90. If funds are available in the dentist loan repayment fund created under section 3702.95 of the Revised Code and the general assembly has appropriated the funds for the program, the director of health shall approve an applicant for participation in the program on finding in accordance with the priorities established under section 3702.88 of the Revised Code that the applicant is eligible for participation and is needed in a dental health resource shortage area.

On approving an application, the director shall notify and enter into discussions with the applicant. The object of the discussions is to facilitate recruitment of the applicant to a site within a dental health resource shortage area at which, according to the priorities established under section 3702.88 of the Revised Code, the applicant is needed. The director may pay the costs incurred by the applicant and the applicant's spouse for travel, meals, and lodging in making one visit to one dental health resource shortage area. The director may also refer an applicant to the Ohio dental association for assistance in being recruited to a site within a dental health resource shortage area at which the applicant will agree to be placed.

If the director and applicant agree on the applicant's placement at a particular site within a dental health resource shortage area, the applicant shall sign and deliver to the director a letter of intent agreeing to that placement.

Sec. 3702.91. (A) An individual who has signed a letter of intent under section 3702.90 of the Revised Code may enter into a contract with the director of health and the Ohio board of regents for participation in the dentist loan repayment program. A lending institution may also be a party to the contract.

(B) The contract shall include all of the following obligations:

(1) The individual agrees to provide dental services in the dental health resource shortage area identified in the letter of intent for at least one year.

(2) When providing dental services in the dental health resource shortage area, the individual agrees to do all of the following:

(a) Provide dental services for a minimum of forty hours per week;

(b) Provide dental services without regard to a patient's ability to pay;

(c) Meet the conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and the department of job and family services for participation in the medicaid program established under Chapter 5111. of the Revised Code and enter into a contract with the department to provide dental services to medicaid recipients.

(3) The Ohio board of regents agrees, as provided in section 3702.85 of the Revised Code, to repay, so long as the individual performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the individual for expenses described in section 3702.85 of the Revised Code up to but not exceeding twenty thousand dollars per year of service.

(4) The individual agrees to pay the board the following as damages if the individual fails to complete the service obligation agreed to under division (B)(1) of this section:

(a) If the failure occurs during the first two years of the service obligation, three times the total amount the board has agreed to repay under division (B)(3) of this section:

(b) If the failure occurs after the first two years of the service obligation, three times the amount the board is still obligated to repay under division (B)(3) of this section.

(C) The contract may include any other terms agreed upon by the parties, including an assignment to the Ohio board of regents of the individual's duty to pay the principal and interest of a government or other educational loan taken by the individual for expenses described in section 3702.85 of the Revised Code. If the board assumes the individual's duty to pay a loan, the contract shall set forth the total amount of principal and interest to be paid, an amortization schedule, and the amount of each payment to be made under the schedule.

(D) Not later than the thirty-first day of January of each year, the Ohio board of regents shall mail to each individual to whom or on whose behalf repayment is made under the dentist loan repayment program a statement showing the amount of principal and interest repaid by the board pursuant to the contract in the preceding year. The statement shall be sent by ordinary mail with address correction and forwarding requested in the manner prescribed by the United States postal service.

Sec. 3702.92. There is hereby created the dentist loan repayment

advisory board. The board shall consist of the following members:

(A) One member of the house of representatives, appointed by the speaker of the house of representatives;

(B) One member of the senate, appointed by the president of the senate;

(C) A representative of the board of regents, appointed by the chancellor;

(D) The director of health or an employee of the department of health designated by the director;

(E) Three representatives of the dental profession, appointed by the governor from persons nominated by the Ohio dental association.

The governor shall appoint the dental profession representatives not later than ninety days after the effective date of this section. The terms of all members shall commence ninety-one days after the effective date of this section. Of the initial appointments made by the governor, two shall serve a term of one year and one shall serve a term of two years. The initial appointment made by the speaker of the house of representatives shall be for a term of one year. The initial appointment made by the president of the senate shall be for a term of two years.

Vacancies shall be filled in the manner prescribed for the original appointment. A member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration of the member's term until a successor takes office or until sixty days have elapsed, whichever occurs first. No person shall be appointed to the board for more than two consecutive terms. Thereafter, terms of office shall be two years. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed, except that a legislative member ceases to be a member of the board on ceasing to be a member of the general assembly.

The governor, speaker, or president may remove a member for whom the governor, speaker, or president was the appointing authority, for misfeasance, malfeasance, or willful neglect of duty.

The board shall designate a member to serve as chairperson of the board.

The board shall meet at least once annually. The chairperson shall call special meetings as needed or upon the request of six members.

Six members of the board constitute a quorum to transact and vote on all business coming before the board.

Members of the board shall serve without compensation, but may be reimbursed for reasonable and necessary expenses incurred in the discharge

of their duties.

The department of health shall provide the board with staff assistance as requested by the board.

Sec. 3702.93. The dentist loan repayment advisory board shall determine the amounts that will be paid as loan repayments on behalf of participants in the dentist loan repayment program. No repayment shall exceed twenty thousand dollars in any year, except that if a repayment results in an increase in the participant's federal, state, or local income tax liability, the Ohio board of regents, at the participant's request and with the approval of the director of health, may reimburse the participant for the increased tax liability, regardless of the amount of the repayment in that year. Total repayment on behalf of a participant shall not exceed eighty thousand dollars over the time of participation in the program.

Sec. 3702.94. The dentist loan repayment advisory board, annually on or before the first day of March, shall submit a report to the general assembly describing the operations of the dentist loan repayment program during the previous calendar year. The report shall include information about all of the following:

(A) The number of requests received by the director of health that a particular area be designated as a dental health resource shortage area;

(B) The areas that have been designated as dental health resource shortage areas and the priorities that have been assigned to them;

(C) The number of applicants for participation in the dentist loan repayment program;

(D) The number of dentists assigned to dental health resource shortage areas and the payments made on behalf of those dentists under the dentist loan repayment program;

(E) The dental health resource shortage areas that have not been matched with all of the dentists they need;

(F) The number of dentists failing to complete their service obligations, the amount of damages owed, and the amount of damages collected.

Sec. 3702.95. The director of health may accept gifts of money from any source for the implementation and administration of sections 3702.85 to 3702.93 of the Revised Code. The Ohio board of regents may accept gifts of money from any source for implementation and administration of the dentist loan repayment program under sections 3702.85 and 3702.91 of the Revised Code.

The director shall pay all gifts accepted under this section into the state treasury, to the credit of the dental health resource shortage area fund, which is hereby created. The board shall pay all gifts accepted under this section,

and damages collected under division (B)(4) of section 3702.91 of the Revised Code, into the state treasury, to the credit of the dentist loan repayment fund, which is hereby created.

The director shall use the dental health resource shortage area fund for the implementation and administration of sections 3702.85 and 3702.87 to 3702.93 of the Revised Code. The board shall use the dentist loan repayment fund for the implementation and administration of the dentist loan repayment program under sections 3702.85 and 3702.91 of the Revised Code.

Sec. 4715.02. The governor, with the advice and consent of the senate, shall appoint a state dental board consisting of ~~seven~~ thirteen persons, ~~five~~ nine of whom shall be graduates of a reputable dental college, citizens of the United States, and shall have been in the legal and reputable practice of dentistry in the state at least five years next preceding their appointment; ~~one~~ three of whom shall be ~~a graduate~~ graduates of a reputable school of dental hygiene, ~~a citizen~~ citizens of the United States, and shall have been in the legal and reputable practice of dental hygiene in the state at least five years next preceding ~~the person's~~ their appointment; and one of whom shall be a member of the public at large who is not associated with or financially interested in the practice of dentistry. ~~Terms~~

Of the nine members who are in the practice of dentistry, there shall be not more than two on the board at any time who are recognized as specialists pursuant to rules adopted by the board. Of the three members who are in the practice of dental hygiene, not more than one may be a person employed as a full-time teacher of dental hygiene students. Representation of the various geographical areas of the state shall be considered in making appointments for members who are in the practice of dentistry and for members who are in the practice of dental hygiene.

Terms of office shall be for ~~five~~ four years, commencing on the seventh day of April and ending on the sixth day of April, ~~except that upon expiration of the term ending April 25, 1978, the new term which succeeds it shall commence on April 26, 1978 and end on April 6, 1983; upon expiration of the term ending July 23, 1974, the new term which succeeds it shall commence on July 24, 1974 and end on April 6, 1979; and upon expiration of the term ending June 24, 1975, the new term which succeeds it shall commence on June 25, 1975 and end on April 6, 1980.~~ Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of

such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. No person so appointed shall serve to exceed two terms. ~~The~~

The Ohio dental association may submit to the governor the names of five nominees for each position to be filled by a dentist and from the names so submitted or from others, at the governor's discretion, the governor shall make such appointments; provided that all such appointees shall possess the required qualifications. The Ohio dental hygienists association, inc., may submit to the governor the names of five nominees for each position to be filled by a dental hygienist and from the names so submitted or from others, at the governor's discretion, the governor shall make such appointments; provided that all such appointees shall possess the required qualifications. No person shall be appointed to the state dental board who is employed by or practices in a corporation holding a certificate of authority under Chapter 1751. of the Revised Code with a person who is a member of the board.

No member of the board shall administer to a student in this state or to a graduate of a dental college located in this state an examination on behalf of any of the following: the central regional dental testing service, inc., northeast regional board of dental examiners, inc., southern regional testing agency, inc., or western regional examining board.

Sec. 4715.03. (A) The state dental board shall organize by the election from its members of a president and a secretary. It shall hold meetings monthly at least eight months a year at such times and places as the board designates. A majority of the members of the board shall constitute a quorum. The board shall make such reasonable rules as it determines necessary pursuant to Chapter 119. of the Revised Code.

(B) A concurrence of a majority of the members of the board shall be required to grant, refuse, suspend, place on probationary status, revoke, refuse to renew, or refuse to reinstate a license or censure a license holder.

(C) The board shall adopt rules establishing standards for the safe practice of dentistry and dental hygiene by qualified practitioners and shall, through its policies and activities, promote such practice.

The board shall adopt rules in accordance with Chapter 119. of the Revised Code establishing universal blood and body fluid precautions that shall be used by each person licensed under this chapter who performs exposure prone invasive procedures. The rules shall define and establish requirements for universal blood and body fluid precautions that include the following:

- (1) Appropriate use of hand washing;

- (2) Disinfection and sterilization of equipment;
- (3) Handling and disposal of needles and other sharp instruments;
- (4) Wearing and disposal of gloves and other protective garments and devices.

(D) The board shall administer and enforce the provisions of this chapter. The board shall investigate evidence which appears to show that any person has violated any provision of this chapter. Any person may report to the board under oath any information such person may have appearing to show a violation of any provision of this chapter. In the absence of bad faith, any person who reports such information or who testifies before the board in any disciplinary proceeding conducted pursuant to Chapter 119. of the Revised Code is not liable for civil damages as a result of making the report or providing testimony. If after investigation the board determines that there are reasonable grounds to believe that a violation of this chapter has occurred, the board shall conduct disciplinary proceedings pursuant to Chapter 119. of the Revised Code or provide for a license holder to participate in the quality intervention program established under section 4715.031 of the Revised Code. The board shall not dismiss any complaint or terminate any investigation except by a majority vote of its members. For the purpose of any disciplinary proceeding or any investigation conducted under this division, the board may administer oaths, order the taking of depositions, issue subpoenas, compel the attendance and testimony of persons at depositions and compel the production of books, accounts, papers, documents, or other tangible things. The hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code. Notwithstanding section 121.22 of the Revised Code, proceedings of the board relative to the investigation of a complaint or the determination whether there are reasonable grounds to believe that a violation of this chapter has occurred are confidential and are not subject to discovery in any civil action.

(E)(1) The board shall examine or cause to be examined eligible applicants to practice ~~dentistry~~ and dental hygiene. The board may distinguish by rule different classes of qualified personnel according to skill levels and require all or only certain of these classes of qualified personnel to be examined and certified by the board.

(2) The board shall administer a written jurisprudence examination to each applicant for a license to practice dentistry. The examination shall cover only the statutes and administrative rules governing the practice of dentistry in this state.

(F) In accordance with Chapter 119. of the Revised Code, the board

shall adopt, and may amend or rescind, rules establishing the eligibility criteria, the application and permit renewal procedures, and safety standards applicable to a dentist licensed under this chapter who applies for a permit to employ or use conscious intravenous sedation. These rules shall include all of the following:

- (1) The eligibility requirements and application procedures for an eligible dentist to obtain a conscious intravenous sedation permit;
- (2) The minimum educational and clinical training standards required of applicants, which shall include satisfactory completion of an advanced cardiac life support course;
- (3) The facility equipment and inspection requirements;
- (4) Safety standards;
- (5) Requirements for reporting adverse occurrences.

Sec. 4715.10. (A) As used in this section, "accredited dental college" means a dental college accredited by the commission on dental accreditation or a dental college that has educational standards recognized by the commission on dental accreditation and is approved by the state dental board.

(B) Each person who desires to practice dentistry in this state shall file a written application for a license with the secretary of the state dental board. The application shall be on a form prescribed by the board and verified by oath. Each applicant shall furnish satisfactory proof to the board that the applicant has met the requirements of divisions (C) and (D) of this section, and if the applicant is a graduate of an unaccredited dental college located outside the United States, division (E) of this section.

(C) To be granted a license to practice dentistry, an applicant must meet all of the following requirements:

- (1) Be at least eighteen years of age;
- (2) Be of good moral character;
- (3) Be a graduate of an accredited dental college or of a dental college located outside the United States who meets the standards adopted under section 4715.11 of the Revised Code;
- (4) Have passed parts I and II of the examination given by the national board of dental examiners;
- (5) Have passed a written jurisprudence examination administered by the state dental board under division (E)(2) of section 4715.03 of the Revised Code;
- (6) Pay the fee required by division (A)(1) of section 4715.13 of the Revised Code.

(D) To be granted a license to practice dentistry, an applicant must meet

any one of the following requirements:

(1) Have taken an examination administered by any of the following regional testing agencies and received on each component of the examination a passing score as specified in division (A) of section 4715.11 of the Revised Code: the central regional dental testing service, inc., northeast regional board of dental examiners, inc., the southern regional dental testing agency, inc., or the western regional examining board;

(2) Have taken an examination administered by the state dental board and received a passing score as established by the board;

(3) Possess a license in good standing from another state and have actively engaged in the legal and reputable practice of dentistry in another state or in the armed forces of the United States, the United States public health service, or the United States department of veterans' affairs for five years immediately preceding application.

(E) To be granted a license to practice dentistry, a graduate of an unaccredited dental college located outside the United States must meet both of the following requirements:

(1) Have taken a basic science and laboratory examination consistent with rules adopted under section 4715.11 of the Revised Code and received a passing score as established by the board;

(2) Have had sufficient clinical training in an accredited institution to reasonably assure a level of competency equal to that of graduates of accredited dental colleges, as determined by the board.

Sec. 4715.11. In the state dental board's implementation of section 4715.10 of the Revised Code, all of the following apply:

(A) For purposes of division (D)(1) of section 4715.10 of the Revised Code, a passing score on a component of an examination administered by a regional testing agency is the score established by the agency as a passing score for the component or, if the agency has not established a passing score for the component, the score established by the board as a passing score for the component. The board shall adopt rules establishing passing scores for examination components as necessary to implement this division.

(B) The board shall adopt rules establishing standards that must be met by graduates of unaccredited dental colleges located outside the United States. The standards must reasonably assure that the graduates have received a level of education and training equal to that provided by accredited dental colleges.

(C) The board shall adopt rules governing the basic sciences and laboratory examination required by division (E)(1) of section 4715.10 of the Revised Code.

Sec. 4715.12. If an applicant passes the examination required by section ~~4715.11~~ 4715.10 of the Revised Code, ~~he~~ the applicant shall receive a license from the state dental board attested by its seal and signed by the president and secretary, which shall be conclusive evidence of ~~his~~ the applicant's right to practice dentistry. If the loss of a license is satisfactorily shown, a duplicate thereof shall be issued by the board.

If an applicant fails the examination required by section ~~4715.11~~ 4715.10 of the Revised Code, ~~he~~ the applicant may apply for re-examination at a subsequent regular or special examination meeting of the state dental board. No applicant shall be admitted to more than two examinations without first presenting satisfactory proof that ~~he~~ the applicant has successfully completed such refresher courses in an accredited dental college as the state dental board may prescribe.

Sec. 4715.13. (A) Applicants for licenses to practice dentistry or for a general anesthesia permit or a conscious intravenous sedation permit shall pay to the secretary of the state dental board the following fees:

~~(A)(1)~~ (1) For license ~~by examination to practice dentistry, one hundred ninety two hundred~~ by examination to practice dentistry, one hundred ninety two hundred dollars if issued in an odd-numbered year or three hundred ~~seventeen thirty-seven~~ seventeen thirty-seven dollars if issued in an even-numbered year;

~~(B)~~ (B) For license ~~by endorsement, one hundred ninety dollars if issued in an odd-numbered year or three hundred seventeen dollars if issued in an even-numbered year;~~

~~(C)~~ (2) For duplicate license, to be granted upon proof of loss of the original, twenty dollars;

~~(D)~~ (3) For a general anesthesia permit, one hundred twenty-seven dollars;

~~(E)~~ (4) For a conscious intravenous sedation permit, one hundred twenty-seven dollars.

(B) Twenty dollars of each fee collected under division (A)(1) of this section for a license issued in an even-numbered year and ten dollars of each fee collected under division (A)(1) of this section in an odd-numbered year shall be paid to the dentist loan repayment fund established under section 3702.95 of the Revised Code.

(C) In the case of a person who applies for a license to practice dentistry by taking an examination administered by the state dental board, both of the following apply:

(1) The fee in division (A)(1) of this section may be refunded to an applicant who is unavoidably prevented from attending the examination, or the applicant may be examined at the next regular or special meeting of the board without an additional fee.

(2) An applicant who fails the first examination may be re-examined at the next regular or special meeting of the board without an additional fee.

Sec. 4715.14. (A) Each person who is licensed to practice dentistry in Ohio shall, on or before the first day of January of each even-numbered year, register with the state dental board. The registration shall be made on a form prescribed by the board and furnished by the secretary, shall include the licensee's name, address, license number, and such other reasonable information as the board may consider necessary, and shall include payment of a biennial registration fee of two hundred ~~twenty~~ forty-five dollars. This Except as provided in division (D) of this section, this fee shall be paid to the treasurer of state. All such registrations shall be in effect for the two-year period beginning on the first day of January of the even-numbered year and ending on the last day of December of the following odd-numbered year, and shall be renewed in accordance with the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. The failure of a licensee to renew the licensee's registration in accordance with this section shall result in an automatic suspension of the licensee's license to practice dentistry.

(B) Any dentist whose license has been suspended under this section may be reinstated by the payment of the biennial registration fee and in addition thereto eighty-one dollars to cover costs of the reinstatement; excepting that to any licensed dentist who desires to temporarily retire from practice, and who has given the board notice in writing to that effect, the board shall grant such a retirement, provided only that at that time all previous registration fees and additional costs of reinstatement have been paid.

(C) Each dentist licensed to practice, whether a resident or not, shall notify the secretary in writing of any change in the dentist's office address or employment within ten days after such change has taken place. On the first day of July of every even-numbered year, the secretary shall issue a printed roster of the names and addresses so registered.

(D) Twenty dollars of each biennial registration fee shall be paid to the dentist loan repayment fund created under section 3702.95 of the Revised Code.

Sec. 4715.16. (A) Upon payment of a fee of ten dollars, the state dental board may without examination issue a limited resident's license to any person who is a graduate of a dental college, is authorized to practice in another state or country or qualified to take the regular licensing examination in this state, and furnishes the board satisfactory proof of having been appointed a dental resident at an accredited dental college in

this state or at an accredited program of a hospital in this state, but has not yet been licensed as a dentist by the board. Any person receiving a limited resident's license may practice dentistry only in connection with programs operated by the dental college or hospital at which the person is appointed as a resident as designated on the person's limited resident's license, and only under the direction of a licensed dentist who is a member of the dental staff of the college or hospital or a dentist holding a current limited teaching license issued under division (B) of this section, and only on bona fide patients of such programs. The holder of a limited resident's license may be disciplined by the board pursuant to section 4715.30 of the Revised Code.

(B) Upon payment of one hundred one dollars and upon application endorsed by an accredited dental college in this state, the board may without examination issue a limited teaching license to a dentist who is a graduate of a dental college, is authorized to practice dentistry in another state or country, and has full-time appointment to the faculty of the endorsing dental college. A limited teaching license is subject to annual renewal in accordance with the standard renewal procedure of Chapter 4745. of the Revised Code, and automatically expires upon termination of the full-time faculty appointment. A person holding a limited teaching license may practice dentistry only in connection with programs operated by the endorsing dental college. The board may discipline the holder of a limited teaching license pursuant to section 4715.30 of the Revised Code.

(C)(1) As used in this division:

(a) "Continuing dental education practicum" or "practicum" means a course of instruction, approved by the American dental association, Ohio dental association, or academy of general dentistry, that is designed to improve the clinical skills of a dentist by requiring the dentist to participate in clinical exercises on patients.

(b) "Director" means the person responsible for the operation of a practicum.

(2) Upon payment of one hundred one dollars and application endorsed by the director of a continuing dental education practicum, the board shall, without examination, issue a temporary limited continuing education license to a resident of a state other than Ohio who is licensed to practice dentistry in such state and is in good standing, is a graduate of an accredited dental college, and is registered to participate in the endorsing practicum. The determination of whether a dentist is in good standing shall be made by the board.

A dentist holding a temporary limited continuing education license may practice dentistry only on residents of the state in which the dentist is

permanently licensed or on patients referred by a dentist licensed pursuant to section 4715.12 ~~or 4715.15~~ of the Revised Code to an instructing dentist licensed pursuant to ~~one of those sections~~ that section, and only while participating in a required clinical exercise of the endorsing practicum on the premises of the facility where the practicum is being conducted.

Practice under a temporary limited continuing education license shall be under the direct supervision and full professional responsibility of an instructing dentist licensed pursuant to section 4715.12 ~~or 4715.15~~ of the Revised Code, shall be limited to the performance of those procedures necessary to complete the endorsing practicum, and shall not exceed thirty days of actual patient treatment in any year.

(3) A director of a continuing dental education practicum who endorses an application for a temporary limited continuing education license shall, prior to making the endorsement, notify the state dental board in writing of the identity of the sponsors and the faculty of the practicum and the dates and locations at which it will be offered. The notice shall also include a brief description of the course of instruction. The board may prohibit a continuing dental education practicum from endorsing applications for temporary limited continuing education licenses if the board determines that the practicum is engaged in activities that constitute a threat to public health and safety or do not constitute bona fide continuing dental education, or that the practicum permits activities which otherwise violate this chapter. Any continuing dental education practicum prohibited from endorsing applications may request an adjudication pursuant to Chapter 119. of the Revised Code.

A temporary limited continuing education license shall be valid only when the dentist is participating in the endorsing continuing dental education practicum and shall expire at the end of one year. If the dentist fails to complete the endorsing practicum in one year, the board may, upon the dentist's application and payment of a fee of seventy-five dollars, renew the temporary limited continuing education license for a consecutive one-year period. Only two renewals may be granted. The holder of a temporary limited continuing education license may be disciplined by the board pursuant to section 4715.30 of the Revised Code.

(D) The board shall act either to approve or to deny any application for a limited license pursuant to division (A), (B), or (C) of this section not later than sixty days of the date the board receives the application.

Sec. 4715.23. The practice of a dental hygienist shall consist of those prophylactic, preventive, and other procedures that licensed dentists are authorized by this chapter and rules of the dental board to assign only to

licensed dental hygienists or to qualified personnel under section 4715.39 of the Revised Code.

Licensed dentists may assign to dental hygienists intraoral tasks that do not require the professional competence or skill of the licensed dentist and that are authorized by board rule. Such performance of intraoral tasks by dental hygienists shall be under supervision and full responsibility of the licensed dentist, and at no time shall more than three dental hygienists be practicing clinical hygiene under the supervision of the same dentist. The foregoing shall not be construed as authorizing the assignment of diagnosis, treatment planning and prescription (including prescriptions for drugs and medicaments or authorizations for restorative, prosthodontic, or orthodontic appliances); or, except when done in conjunction with the removal of calcarious deposits, dental cement, or accretions on the crowns and roots of teeth, surgical procedures on hard and soft tissues within the oral cavity or any other intraoral procedure that contributes to or results in an irremediable alteration of the oral anatomy; or the making of final impressions from which casts are made to construct any dental restoration.

The state dental board shall issue rules defining the procedures that may be performed by licensed dental hygienists engaged in school health activities or employed by public agencies.

Sec. 4715.24. (A) Each person who is licensed to practice as a dental hygienist in Ohio shall, on or before the first day of January of each even-numbered year, register with the state dental board. The registration shall be made on a form prescribed by the board and furnished by the secretary, shall include the licensee's name, address, license number, and such other reasonable information as the board may consider necessary, and shall include payment of a biennial registration fee of one hundred ~~one~~ five dollars. This fee shall be paid to the treasurer of state. All such registrations shall be in effect for the two-year period beginning on the first day of January of each even-numbered year and ending on the last day of December of the following odd-numbered year, and shall be renewed in accordance with the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. The failure of a licensee to renew registration in accordance with this section shall result in the automatic suspension of the licensee's license to practice as a dental hygienist.

(B) Any dental hygienist whose license has been suspended under this section may be reinstated by the payment of the biennial registration fee and in addition thereto thirty-one dollars to cover the costs of reinstatement.

(C) The license of a dental hygienist shall be exhibited in a conspicuous place in the room in which the dental hygienist practices. Each dental

hygienist licensed to practice, whether a resident or not, shall notify the secretary in writing of any change in the dental hygienist's office address or employment within ten days after the change takes place.

Sec. 4715.39. (A) The state dental board may define the duties that may be performed by dental assistants and other individuals designated by the board as qualified personnel. If defined, the duties shall be defined in rules adopted in accordance with Chapter 119. of the Revised Code. The rules may include training and practice standards for dental assistants and other qualified personnel. The standards may include examination and issuance of a certificate. If the board issues a certificate, the recipient shall display the certificate in a conspicuous location in any office in which the recipient is employed to perform the duties authorized by the certificate.

~~The board's rules may allow a~~ (B) A dental assistant ~~to~~ may polish the clinical crowns of teeth if all of the following requirements are met:

(1) The dental assistant's polishing activities are limited to the use of a rubber cup attached to a slow-speed rotary dental hand piece to remove soft deposits that build up over time on the crowns of teeth.

(2) The polishing is performed only after a dentist has evaluated the patient and any calculus detected on the teeth to be polished has been removed by a dentist or dental hygienist.

(3) The dentist supervising the assistant supervises not more than two dental assistants engaging in polishing activities at any given time.

~~(3)~~(4) The dental assistant is certified by the dental assisting national board or the Ohio commission on dental assistant certification.

~~(4)~~(5) The dental assistant receives a certificate from the board authorizing the assistant to engage in the polishing activities. The board ~~may~~ shall issue the certificate ~~only~~ if the individual has successfully completed training in the polishing of clinical crowns through a program accredited by the commission on dental accreditation or equivalent training approved by the board. The training shall include courses in basic dental anatomy and infection control, followed by a course in coronal polishing that includes didactic, preclinical, and clinical training; any other training required by the board; and a skills assessment that includes successful completion of standardized testing. The board shall adopt rules pursuant to division (A) of this section establishing standards for approval of this training.

~~(B)~~(C) Subject to this section and the applicable rules of the board, licensed dentists may assign to dental assistants and other qualified personnel dental procedures that do not require the professional competence or skill of the licensed dentist or dental hygienist as this section or the board by rule authorizes dental assistants and other qualified personnel to perform.

The performance of dental procedures by dental assistants and other qualified personnel shall be under direct supervision and full responsibility of the licensed dentist.

~~(C)~~(D) Nothing in this section shall be construed by rule of the state dental board or otherwise to do the following:

(1) Authorize dental assistants or other qualified personnel to engage in the practice of dental hygiene as defined by sections 4715.22 and 4715.23 of the Revised Code or to perform the duties of a dental hygienist, including the removal of calcarious deposits, dental cement, or accretions on the crowns and roots of teeth other than as authorized pursuant to this section;

(2) Authorize the assignment of any of the following:

(a) Diagnosis;

(b) Treatment planning and prescription, including prescription for drugs and medicaments or authorization for restorative, prosthodontic, or orthodontic appliances;

(c) Surgical procedures on hard or soft tissue of the oral cavity, or any other intraoral procedure that contributes to or results in an irremediable alteration of the oral anatomy;

(d) The making of final impressions from which casts are made to construct any dental restoration.

~~(D)~~(E) No dentist shall assign any dental assistant or other individual acting in the capacity of qualified personnel to perform any dental procedure that the assistant or other individual is not authorized by this section or by board rule to perform. No dental assistant or other individual acting in the capacity of qualified personnel shall perform any dental procedure other than in accordance with this section and any applicable board rule or any dental procedure that the assistant or other individual is not authorized by this section or by board rule to perform.

SECTION 2. That existing sections 2305.234, 3701.262, 4715.02, 4715.03, 4715.12, 4715.13, 4715.14, 4715.16, 4715.23, 4715.24, and 4715.39 and sections 4715.10, 4715.11, and 4715.15 of the Revised Code are hereby repealed.

SECTION 3. That the version of section 2305.234 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 2305.234. (A) As used in this section:

(1) "Chiropractic claim," "medical claim," and "optometric claim" have

the same meanings as in section 2305.113 of the Revised Code.

(2) "Dental claim" has the same meaning as in section 2305.113 of the Revised Code, except that it does not include any claim arising out of a dental operation or any derivative claim for relief that arises out of a dental operation.

(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.

(4) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(b) Registered nurses, advanced practice nurses, and licensed practical nurses licensed under Chapter 4723. of the Revised Code;

(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;

(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;

(e) Physical therapists licensed under Chapter 4755. of the Revised Code;

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;

(g) Optometrists licensed under Chapter 4725. of the Revised Code;

(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;

(i) Dietitians licensed under Chapter 4759. of the Revised Code;

(j) Pharmacists licensed under Chapter 4729. of the Revised Code;

(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code.

(5) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.

(6) "Indigent and uninsured person" means a person who meets all of the following requirements:

(a) The person's income is not greater than one hundred fifty per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.

9902, as amended.

(b) The person is not eligible to receive medical assistance under Chapter 5111., disability assistance medical assistance under Chapter 5115. of the Revised Code, or assistance under any other governmental health care program.

(c) Either of the following applies:

(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.

(ii) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(7) "Operation" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, or the removal of intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection. "Operation" does not include routine dental restorative procedures, the scaling of teeth, or extractions of teeth that are not impacted.

(8) "Nonprofit shelter or health care facility" means a charitable nonprofit corporation organized and operated pursuant to Chapter 1702. of the Revised Code, or any charitable organization not organized and not operated for profit, that provides shelter, health care services, or shelter and health care services to indigent and uninsured persons, except that "shelter or health care facility" does not include a hospital as defined in section 3727.01 of the Revised Code, a facility licensed under Chapter 3721. of the Revised Code, or a medical facility that is operated for profit.

(9) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons or government entities.

(10) "Volunteer" means an individual who provides any medical, dental, or other health-care related diagnosis, care, or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any shelter or health care facility, or any other person or government entity.

(11) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(B)(1) Subject to divisions (E) and (F)(3) of this section, a health care professional who is a volunteer and complies with division (B)(2) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the volunteer in the provision at a nonprofit shelter or health care facility to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, including the provision of samples of medicine and other medical products, unless the action or omission constitutes willful or wanton misconduct.

(2) To qualify for the immunity described in division (B)(1) of this section, a health care professional shall do all of the following prior to providing diagnosis, care, or treatment:

(a) Determine, in good faith, that the indigent and uninsured person is mentally capable of giving informed consent to the provision of the diagnosis, care, or treatment and is not subject to duress or under undue influence;

(b) Inform the person of the provisions of this section;

(c) Obtain the informed consent of the person and a written waiver, signed by the person or by another individual on behalf of and in the presence of the person, that states that the person is mentally competent to give informed consent and, without being subject to duress or under undue influence, gives informed consent to the provision of the diagnosis, care, or treatment subject to the provisions of this section.

(3) A physician or podiatrist who is not covered by medical malpractice insurance, but complies with division (B)(2) of this section, is not required to comply with division (A) of section 4731.143 of the Revised Code.

(C) Subject to divisions (E) and (F)(3) of this section, health care workers who are volunteers are not liable in damages to any person or government entity in a tort or other civil action, including an action upon a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care worker in the provision at a nonprofit shelter or health care facility to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, unless the action or omission constitutes willful or wanton misconduct.

(D) Subject to divisions (E) and (F)(3) of this section and section

3701.071 of the Revised Code, a nonprofit shelter or health care facility associated with a health care professional described in division (B)(1) of this section or a health care worker described in division (C) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care professional or worker in providing for the shelter or facility medical, dental, or other health-related diagnosis, care, or treatment to an indigent and uninsured person, unless the action or omission constitutes willful or wanton misconduct.

(E)(1) Except as provided in division (E)(2) of this section, the immunities provided by divisions (B), (C), and (D) of this section are not available to an individual or to a nonprofit shelter or health care facility if, at the time of an alleged injury, death, or loss to person or property, the individuals involved are providing one of the following:

(a) Any medical, dental, or other health-related diagnosis, care, or treatment pursuant to a community service work order entered by a court under division (B) of section 2951.02 of the Revised Code or imposed by a court as a community control sanction;

(b) Performance of an operation;

(c) Delivery of a baby.

(2) Division (E)(1) of this section does not apply to an individual who provides, or a nonprofit shelter or health care facility at which the individual provides, diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency.

(F)(1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, or nonprofit shelter or health care facility.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which an individual or a nonprofit shelter or health care facility may be entitled in connection with the provision of emergency or other diagnosis, care, or treatment.

(3) This section does not grant an immunity from tort or other civil liability to an individual or a nonprofit shelter or health care facility for actions that are outside the scope of authority of health care professionals or health care workers.

(4) This section does not affect any legal responsibility of a health care professional or health care worker to comply with any applicable law of this

state or rule of an agency of this state.

(5) This section does not affect any legal responsibility of a nonprofit shelter or health care facility to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution, sanitation, health, fire, zoning, or safety.

SECTION 4. That the existing version of section 2305.234 of the Revised Code that is scheduled to take effect January 1, 2004, is hereby repealed.

SECTION 5. Sections 3 and 4 of this act shall take effect January 1, 2004.

SECTION 6. The six members added to the State Dental Board by this act shall be appointed by the Governor in accordance with section 4715.02 of the Revised Code not later than 90 days after the effective date of this section. Notwithstanding the provision of section 4715.02 of the Revised Code that terms of office commence on the seventh day of April, terms of office of the members added by this act shall commence on the ninetieth day after the effective date of this section.

Of the four new members who are in the practice of dentistry, two shall hold office until April 6, 2006, and two shall hold office until April 6, 2007. Of the two new members who are in the practice of dental hygiene, one shall hold office until April 6, 2006, and the other shall hold office until April 6, 2007. After these terms of office, members of the board shall be appointed to four-year terms.

SECTION 7. Each member of the State Dental Board who is in office as a board member on the effective date of this section shall hold office until the end of the five-year term for which the member was appointed. If a member is reappointed or the member's successor takes office, the member or the member's successor shall hold office for a four-year term.

SECTION 8. Section 2305.234 of the Revised Code is presented in Section 3 of this act as a composite of the section as amended by both Am. Sub. H.B. 490 and Am. Sub. S.B. 281 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in Section 3 of this act.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____