

**BILL NO. 30-0345**

**Thirtieth Legislature of the Virgin Islands**

**March 18, 2014**

An Act amending the Virgin Islands Code, titles 3 and 27, relating to the professional practice of dentistry in the Territory and enacting The Dental Healthcare Act, and for other related purposes

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**PROPOSED BY:** Senator Shawn-Michael Malone by Request of the Governor

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1 *Be it enacted by the Legislature of the Virgin Islands:*

2 **SECTION 1.** Title 27 Virgin Islands Code, subchapter III is repealed and reenacted  
3 with amendments to read as follows:

4 ‘Subchapter III. Board of Dental Examiners – Dental Healthcare Act

5

6 **§61 Purpose**

7

8 (a) In the interest of the public health, safety and welfare and to protect the  
9 public from the improper, unprofessional, incompetent and unlawful practice of dentistry  
10 and dental hygiene, it is necessary to provide laws and rules controlling the granting and use  
11 of the privilege to practice dentistry and dental hygiene and to ensure, as much as possible,  
12 that only qualified and fit persons hold that privilege. The fundamental purpose of this  
13 subchapter is to protect the public, and any license, certificate or other practice authorization

1 issued pursuant to this subchapter is a revocable privilege, and no holder of such privilege  
2 may acquire thereby an irrevocable right. The provisions of this subchapter relating to  
3 licensure are not intended to reduce competition or restrain trade with respect to the oral  
4 health needs of the public.

## 5 **§62 Definitions**

6 For the purposes of this subchapter:

7 (a) "Assessment" means the review and documentation of the oral condition and  
8 the recognition and documentation of deviations from the healthy condition, without a  
9 diagnosis to determine the cause or nature of disease or its treatment;

10 (b) "Auxiliary personnel" means all dental assistants, dental technicians, dental  
11 x-ray technicians and other persons employed by dentists or firms and businesses providing  
12 dental services to dentists.

13 (c) "Board" means the Board of Dental Examiners;

14 (d) "Commissioner" means the Commissioner of the Department of Health;

15 (e) "Dental assistant" means a person who may perform basic supportive  
16 procedures as authorized by this subchapter under direct supervision of a licensed dentist;

17 (f) "Dental hygienist" means any person licensed and engaged in the general  
18 practice of dental hygiene and all related or associated duties including educational, clinical  
19 and therapeutic dental hygiene procedures;

20 (g) "Dentist" means an individual who holds a license to practice dentistry in the  
21 United States Virgin Islands;

22 (h) "Dentistry" or "practice of dentistry" means the evaluation, diagnosis,  
23 prevention, treatment, correction, change, relief, prescription of remedy, nonsurgical or  
24 surgical operation and adjunctive treatment or related procedures for any disease, disorder,

1 pain, deformity, deficiency, injury, defect, lesion or physical condition involving either or  
2 both of the functional and aesthetic aspects of the teeth, gingiva, jaws and adjacent hard and  
3 soft tissue of the oral cavity and maxillofacial area or the adjacent and associated structures  
4 and the impact of the disease, disorder, or condition of the human body including  
5 prescription or administration of any drug, medicine, biologic, apparatus, brace, anesthetic  
6 or other therapeutic or diagnostic substance or technique by an individual or the individual's  
7 agent or employee, so long as a dentist is performing any such act, operation, or service  
8 within the scope of his or her education, training and experience gratuitously or for any fee,  
9 reward, emolument or any other form of compensation whether direct or indirect in  
10 accordance with applicable law;

11 (i) "Dental hygiene" or "practice of supervised dental hygiene" means that  
12 portion of dentistry that includes the rendering of educational, preventive and therapeutic  
13 dental services in general, but specifically, scaling, root planeing, curettage and any related  
14 intraoral or extraoral procedure required in the performance of such services;

15 (j) "Direct supervision" means the supervision of those tasks or procedures that  
16 do not require the presence of the dentist in the room where performed but require the  
17 dentist's presence on the premises and availability for prompt consultation, treatment and  
18 evaluation.

19 (k) "Indirect supervision" means the supervision of those tasks or procedures  
20 that do not require the presence of the dentist in the office or on the premises at the time  
21 such tasks or procedures are being performed, but do require that the tasks be performed  
22 with the prior knowledge and consent of the dentist;

23 (l) "License" means the grant of authority by the Board to any person to engage  
24 in the practice of dentistry or dental hygiene, which is a privilege personal to the licensee

1 and may be revoked, suspended, or subjected to disciplinary conditions by the Board for  
2 violation of any of the provisions of this subchapter is null and void upon the failure of the  
3 licensee to file an application for renewal and to pay the fee as required;

4 (m) "Practitioner" means a person engaged in the practice of dentistry or any  
5 field related to dentistry;

6 (n) "Premises" for purposes of subsections (j) and (k) only, means within the  
7 same building, dental office, or treatment facility and within close enough proximity to  
8 respond in a timely manner to an emergency or the need for assistance; and

### 9 **§63 Board of Dental Examiners**

10 (a) The Virgin Islands Board of Dental Examiners as established in 3 V.I.C.  
11 §415 (b)(2) to regulate the practice of dentistry in the Virgin Islands in accordance with this  
12 subchapter and to otherwise enforce this subchapter, has the power and authority as set forth  
13 herein.

14 (b) The Board has the duty of determining a person's initial and continuing  
15 qualification and fitness for the practice of dentistry or dental hygiene, of proceeding against  
16 the unprofessional, improper, incompetent, unlawful, fraudulent, deceptive or unlicensed  
17 practice of dentistry or dental hygiene, and of enforcing this subchapter. The Board shall  
18 discharge this duty in accordance with this subchapter.

19 (c) Members of the Board shall serve a term of four years pursuant to 3 V.I.C.  
20 §415 (b) (2). Upon the expiration of the term of office, a Board member shall continue to  
21 serve until a successor has been appointed and qualified.

22 (d) Members of the Board are entitled to per diem and travel expenses for their  
23 attendance at each meeting of the Board at the rate prescribed in 3 V.I.C. §65.

1 (e) All professional members of the Board shall hold full and unrestricted dental  
2 or dental hygienist licenses in the Virgin Islands, or must be a retired dentist or dental  
3 hygienist who has practiced previously at least five years in the Territory, All professional  
4 members must be persons of recognized professional ability and integrity, and must be  
5 residents of the Virgin Islands pursuant to 3 V.I.C. §415 (b) (2)..

6 (f) The Board may appoint committees from its membership. To perform its  
7 duties under this subchapter, the Board may also hire, discipline and terminate staff.

8 (g) When Board member or staff training is approved by the Board, travel  
9 expenses and a per diem at the rate prescribed in 3 V.I.C. §415 (b) (2) must be paid for such  
10 Board attendance.

11 (h) Telephone or other electronic telecommunication or videoconferences are an  
12 acceptable form for the conduct of Board meetings. The Board may establish procedures by  
13 which its committees may meet by telephone or other telecommunication conference  
14 system.

15 (i) Three members of the Board constitute a quorum.

#### 16 **§64 Powers and Duties of the Board**

17 (a) The powers conferred on the Board by this subchapter must be liberally  
18 construed to protect the health, safety and welfare of the public. The Board, within the  
19 context of this subchapter and the requirements of due process, has the following powers  
20 and duties to:

21 (1) Enforce and administer the provisions of this subchapter;

22 (2) Adopt, amend and repeal regulations to carry out the provisions of  
23 this subchapter and otherwise fulfill its duties;

1           (3)     Approve or deny applications for initial licensure or renewal based on  
2     evaluation of adverse information relating to an applicant's qualifications to practice;

3           (4)     Issue, deny, review, restrict, suspend, revoke or reinstate licenses;

4           (5)     Regulate auxiliary personnel;

5           (6)     Receive, review and investigate complaints against practitioners for  
6     whose licensure it is responsible, and take appropriate disciplinary action;

7           (7)     Review and investigate reports received from law enforcement  
8     agencies, health care organizations, governmental agencies, insurers and other  
9     entities having information pertinent to the professional performance of licensees;

10          (8)     Issue subpoenas and subpoenas *duces tecum*, administer oaths,  
11     receive testimony and conduct hearings with due process;

12          (9)     Discipline licensees found in violation of this subchapter;

13          (10)    Institute actions in its own name and enjoin violators of the this  
14     subchapter;

15          (11)    Establish appropriate fees and charges to support active and effective  
16     pursuit of its legal responsibilities;

17          (12)    Develop, adopt and submit its budget to the Commissioner of Health;

18          (13)    Report all final disciplinary actions, license denials and voluntary  
19     license limitations or surrenders related to dentists, dental hygienists and other  
20     auxiliaries, with any accompanying license limitations or surrenders related to  
21     dentists, dental hygienists and other auxiliaries, with any accompanying Board  
22     orders, findings of fact and conclusions of law, to the National Practitioners Data  
23     Bank and to any other data repository as is appropriate, or as required by law, and  
24     report all such actions, denials and limitations or surrenders related to other

1 licensees, with the same supporting documentation, to the appropriate national  
2 practitioner data repositories recognized by the Board or required by law;

3 (14) Take administrative action to halt the unlicensed or illegal practice of  
4 dentistry and to seek penalties against those engaged in such practice; and

5 (15) Institute proceedings in courts of competent jurisdiction to enforce its  
6 orders and the provisions of this subchapter.

### 7 **§65 Funding and Fees**

8 (a) The Board must be fully supported by the revenues generated from its  
9 activities, including fees, fines and reimbursed costs.

10 (b) There is established within the Treasury of the Virgin Islands, the Virgin  
11 Islands Board of Dental Examiner's Fund into which all revenues collected by the Board  
12 must be deposited and from which expenses of the Board may be funded.

13 (c) The Board may establish by regulations reasonable administrative fees and  
14 charges. The Board shall provide reasonable notice for all increases or decreases in fees and  
15 charges.

16 (d) The Board shall operate on the same fiscal year as the Government of the  
17 Virgin Islands under 2 V.I.C.

### 18 **§66 Rules and Regulations**

19 (a) The Board may adopt regulations consistent with this subchapter and may  
20 amend, repeal and enforce those regulations in furtherance of its legal responsibilities.

### 21 **§67 Persons exempt from operation of this subchapter**

22 (a) Nothing in this subchapter applies to the following practices, acts, or  
23 operations:

1           (1)     Practice by a physician or a surgeon of the physician's or surgeon's  
2 profession licensed as such under the laws of this Territory, unless the physician or surgeon  
3 practices dentistry as a specialty;

4           (2)     The giving of an anesthetic by a qualified anesthetist or registered nurse for a  
5 dental operation under the direct supervision of a licensed dentist;

6           (3)     The practice of dentistry or dental hygiene in the discharge of their official  
7 duties by graduate dentists or dental surgeons or dental hygienists in the United States  
8 armed forces, public health service, Coast Guard, or Veterans Administration;

9           (4)     Students or residents regularly employed by a Territorial or private hospital  
10 or federally qualified health center under an advanced dental education program accredited  
11 by the Commission on Dental Accreditation of the American Dental Association and  
12 approved and registered as such by the Board;

13          (5)     The practice of dental hygiene by instructors and students or the practice of  
14 dentistry by students or residents in schools or colleges of dentistry, schools of dental  
15 hygiene, or schools of dental assistant education while such instructors, students, or  
16 residents are participating in accredited programs of such schools or colleges;

17          (6)     The practice of dentistry or dental hygiene by dentists or dental hygienists  
18 licensed in good standing by other states or countries while appearing in programs of dental  
19 education or research at the invitation of any group of licensed dentists or dental hygienists  
20 in this Territory who are in good standing, so long as such practice is limited to five  
21 consecutive days in a twelve-month period and the name of each person engaging in such  
22 practice is submitted to the Board, in writing and on a form approved by the Board, at least  
23 ten days before the planned performance of such practice;



1           (7)     The filling of laboratory work orders of a licensed dentist by any person,  
2     association, corporation or other entity for the construction, reproduction, or repair of  
3     prosthetic dentures, bridges, plates or appliances to be used or worn as substitutes for  
4     natural teeth or for the restoration of natural teeth or replacement of structures relating to  
5     the jaws, maxillofacial area or adjacent and associated structures;

6           (8)     The performance of acts by a person under the direct or indirect supervision  
7     of a dentist licensed in the Territory when authorized pursuant to the regulations of the  
8     Board or when authorized under other provisions of this subchapter; or

9           (9)     The practice of dentistry or dental hygiene during the administration of an  
10    examination by an examiner representing a testing agency approved by the Board.

11    **§68 Dentists – Licensing, Scope of Practice.**

12           (a)     Every person who desires to practice dentistry in this Territory shall file with  
13    the Board an application for a license on a form to be provided by the Board, verified by the  
14    oath of the applicant and accompanied by a fee as established by regulations of the Board.  
15    Every applicant for a license to practice dentistry:

16                   (1)     Must be of good professional character and twenty-one years of age  
17    or older;

18                   (2)     Shall have graduated from and received a degree from a dental school  
19    accredited by the American Dental Association Joint Commission on Dental  
20    Accreditation; and

21                   (3)     Shall submit satisfactory proof to the Board of having successfully  
22    passed the following:

23                           (A)    The dental examination administered by the U.S. Joint  
24    Commission on National Dental Examinations of the American Dental

1 Association, or, if the test is not available, another written examination as  
2 determined by the Board;

3 (B) An examination designed to test the applicant’s clinical skills  
4 and knowledge administered by a regional testing agency composed of at  
5 least four states as determined by the Board; or a

6 (C) A jurisprudence examination, approved by the Board,  
7 designed to test the applicant’s knowledge of the provisions of this  
8 subchapter and the regulations of the Board.

9 (b) An applicant for a license to practice dentistry who is a graduate of a foreign  
10 dental school not accredited by the joint commission on dental accreditation shall:

11 (1) Present evidence of having completed either a clinical specialty  
12 recognized by the American Dental Association, or a program in clinical dentistry  
13 resulting in a doctorate of dental surgery or a doctorate of dental medicine at an  
14 accredited dental school;

15 (2) Pass the examination administered by the joint commission on  
16 national dental examinations; and

17 (3) Pass an examination designed to test the applicant’s clinical skills and  
18 knowledge administered by a regional testing agency as approved by the Board; and

19 (4) Pass a jurisprudence examination, approved by the Board, designed to  
20 test the applicant’s knowledge of the provisions of this subchapter.

21 (c) The Board may issue a license to an applicant to practice dentistry by  
22 credentials without a practical or clinical examination when the applicant is duly licensed by  
23 clinical examination as a dentist under the laws of a state or territory of the United States. A  
24 license for dentistry by credentials may be issued under the following circumstances:

1           (1)    The applicant’s license is active and in good standing for the five  
2 consecutive years prior to application;

3           (2)    The applicant’s credentials show that no dental board actions have  
4 been taken during the five years prior to filing his application; that no proceedings  
5 are pending in any state or territory in which the applicant has had a license during  
6 the five years prior to application;

7           (3)    A review of public records, the National Practitioners Data Bank or  
8 other nationally recognized data resources that record actions against a dentist in the  
9 United States does not reveal the existence of any activities or pending civil or  
10 criminal charges that could reasonably be construed to constitute evidence of danger  
11 to patients; and

12          (4)    The applicant that has failed the Virgin Islands or other regional  
13 dental testing service exam of which the Board is a member within the last five years  
14 from the date of application has retaken and passed the regional dental testing  
15 service exam of which the Board is a member; and

16          (5)    The applicant successfully passes a jurisprudence examination,  
17 approved by the Board, designed to test the applicant’s knowledge of the provisions  
18 of this subchapter and Rules and Regulations of the Board.

19          (d)    License Renewal. Licenses must be renewed or reinstated pursuant to a  
20 schedule established by the Board. The Board may establish renewal fees, delinquency fees  
21 and continuing education requirements for renewal and reinstatement. If a person fails to  
22 renew the license pursuant to the schedule established by the Board, the license expires.  
23 Any person whose license has expired and continues to practice is subject to the penalties  
24 provided in this subchapter.

1 **§69 Dental Hygienist – Licensing**

2 (a) As used in this subchapter “practice of supervised dental hygiene” means a  
3 person under the supervision of a licensed dentist who:

4 (1) Under direct supervision.

5 (A) Removes granulation and degenerated tissue from the gingival  
6 wall of the periodontal pocket through the process of gingival curettage.  
7 Such curettage may include the incidental removal of live epithelial tissue  
8 and is to be performed under the direct supervision of a licensed dentist; or

9 (B) Administers local anesthetic under the direct supervision of a  
10 licensed dentist pursuant to regulations of the Board which include minimum  
11 education requirements and procedures for such administration.

12 (2) Under indirect supervision:

13 (A) Removes deposits, accretions, and stains by scaling with hand,  
14 ultrasonic, or other devices from all surfaces of the tooth and smooths and  
15 polishes natural and restored tooth surfaces, including root planning; or

16 (B) Provides preventive measures including, the application of  
17 fluorides, sealants, and other recognized topical agents for the prevention of  
18 oral disease;

19 (C) Gathers and assembles information including,:

20 (i) Fact-finding and patient history;

21 (ii) Radiographic and X-ray survey for the purpose of  
22 assessing and diagnosing dental hygiene-related conditions for  
23 treatment planning for dental hygiene services as described in this

1 section and identifying dental abnormalities for immediate referral to  
2 a dentist;

3 (iii) Preparation of study casts;

4 (iv) Oral inspection; and

5 (v) Dental and periodontal charting;

6 (D) Administers a topical anesthetic to a patient in the course of  
7 providing dental care;

8 (E) Performs dental hygiene assessment, dental hygiene diagnosis,  
9 and dental hygiene treatment planning for dental hygiene services as  
10 described in this section and identifies dental abnormalities for immediate  
11 referral to a dentist; or

12 (F) Administers fluoride, fluoride varnish, and antimicrobial  
13 solutions for mouth rinsing.

14 (b) License Requirements. Every person to practice dental hygiene in the Virgin  
15 Islands who desires to practice dental hygiene in this Territory shall file with the Board an  
16 application for a license on a form provided by the Board, verified by the oath of the  
17 applicant, and accompanied by a reasonable fee as established by the regulations of the  
18 Board. Every applicant for a license to practice dental hygiene :

19 (1) Must be of good professional character and eighteen years of age or  
20 older; and

21 (2) Shall have graduated from a school of dental hygiene that, at the time  
22 of the applicant's graduation, was accredited by the American Dental Association.

23 (3) Shall submit to the Board proof of having successfully passed the  
24 following:

1 (A) An examination administered by the Joint Commission on  
2 National Dental Examinations;

3 (B) An examination designed to test the applicant's clinical skills  
4 and knowledge, which shall be administered by a regional testing agency  
5 composed of at least four states as determined by the Board; and

6 (C) A jurisprudence examination, approved by the Board,  
7 designed to test the applicant's knowledge of the provisions of this  
8 subchapter and the rules and regulations of the Board.

9 (c) The Board may issue a license to practice dental hygiene, by credentials,  
10 without a practical or clinical examination to an applicant who is duly licensed by a clinical  
11 examination as a dental hygienist under the laws of a state or territory of the United States  
12 when :

13 (1) The applicant's license is active and all dental hygienist licenses that  
14 individual possesses have been in good standing for two consecutive years prior to  
15 application;

16 (2) The applicant's credentials show that no dental board actions have  
17 been taken during the two years prior to application; that no proceedings are pending  
18 in any states in which the applicant has had a license in the two years prior to  
19 application;

20 (3) A review of public records, the National Practitioners Data Bank or  
21 other nationally recognized data resources that record actions against a dentist in the  
22 United States does not reveal any activities or un-acquitted criminal charges or un-  
23 dismissed civil claims that could reasonably be construed to constitute evidence of  
24 danger to patients, including acts of moral turpitude; and

1           (4) Applicant successfully passes a jurisprudence examination, approved  
2 by the Board, designed to test the applicant's knowledge of the provisions of this  
3 subchapter.

4           (d) Licenses must be renewed or reinstated pursuant to a schedule established by  
5 the Board by regulations. The Board may by regulations establish renewal fees,  
6 delinquency fees and continuing education requirements for renewal and reinstatement. If a  
7 person fails to renew the license pursuant to the schedule established by the Board, the  
8 license expires. Any person whose license has expired and continues to practice is subject  
9 to the penalties provided in this subchapter.

10 **§70 Retirement and inactive status; reactivation**

11           (a) Any dentist or dental hygienist who wishes to retire from the practice of  
12 dentistry or dental hygiene shall meet all requirements for retirement as set forth in  
13 regulations by Board and the committee. The licensee shall notify the Board in writing  
14 before the expiration of the licensee's current license, and the Board shall acknowledge the  
15 receipt of notice and record the same. If, within a period of three years from the date of  
16 retirement, the dentist or dental hygienist wishes to resume practice, the applicant shall so  
17 notify the Board in writing and give proof of completing all requirements as prescribed by  
18 rules of the Board to reactivate the license. The Board may reactivate the license and the  
19 licensee may resume the practice of dentistry or dental hygiene in accordance with the  
20 regulations of the Board.

21           (b) Any dentist or dental hygienist who wishes to place his license on inactive  
22 status shall meet all requirements for retirement as set by rules of the Board and the  
23 committee. The licensee shall notify the Board in writing before the expiration of the  
24 licensee's current license, and the Board shall acknowledge the receipt of notice and record

1 the same. If the dentist or dental hygienist wishes to resume practice, the applicant shall so  
2 notify the Board in writing and give proof of completing all requirements as prescribed by  
3 rules of the Board to reactivate the license. The Board may reactivate the license and the  
4 licensee may resume the practice of dentistry or dental hygiene subject to any stipulations of  
5 the Board.

6 (c) A licensee whose license has been retired or on inactive status may not  
7 engage in any of the activities contained within the scope of practice of dentistry or dental  
8 hygiene in the Territory described in this subchapter.

9 (d) Inactive licenses must be reactivated or permanently retired within five years  
10 of having been placed in inactive status.

#### 11 **§71 Ownership of dental practice – limitations**

12 (a) Only a dentist licensed to practice dentistry in the Territory pursuant to this  
13 subchapter may be the proprietor of a dental practice in the Territory. A corporate entity  
14 that has a dental practice or dental office in the Territory must be owned by a dentist  
15 licensed pursuant to this subchapter who owns at least a majority interest in that corporate  
16 entity.

#### 17 **§72 Practicing without a license; penalty**

18 (a) Any person who practices dentistry or who attempts to practice dentistry  
19 without first complying with the provisions of this subchapter or without being the holder of  
20 a license entitling the practitioner to practice dentistry in the Territory is guilty of a  
21 misdemeanor for the first offense. Subsequent offenses constitute a felony. Each  
22 occurrence of practicing dentistry or attempting to practice dentistry without complying  
23 with this subchapter shall constitute a separate violation.



1           (b) Any person who practices as a dental hygienist or who attempts to practice as  
2 a dental hygienist without first complying with the provisions of this subchapter and without  
3 being the holder of a license entitling the practitioner to practice as a dental hygienist in the  
4 Territory is guilty of a misdemeanor for the first offense. Subsequent offenses constitute a  
5 felony. Each occurrence of practicing as a dental hygienist or attempting to practice as a  
6 dental hygienist without complying with this subchapter is a separate violation.

7           (c) A person or entity that functions or attempts to function as a dental practice  
8 without first complying with the provisions of this chapter is guilty of a misdemeanor. A  
9 subsequent offense constitutes a felony. Each occurrence of noncompliance with this  
10 chapter constitutes a separate violation.

### 11 **§73 Professional Misconduct**

12           (a) The Board may refuse to license, otherwise restrict a license, or suspend or  
13 revoke a license that has been issued by the Board and may fine, censure or reprimand a  
14 licensee upon satisfactory proof that the applicant for or holder of the license is guilty of  
15 unprofessional or dishonorable conduct.

16           (b) The Board may in its discretion and for good cause shown, for protection of  
17 the public, for the purpose of rehabilitation of the licensee or both, place the licensee on  
18 probation on such terms and conditions as it determines. Upon expiration of the term of  
19 probation, further proceedings may be abated by the Board if the holder of the license  
20 furnishes the Board with evidence that the licensee is competent to practice, is of good  
21 moral character and has complied with the terms of probation.

22           (c) If evidence fails to establish to the satisfaction of the Board that the licensee  
23 is competent and is of good moral character or if evidence shows that the licensee has failed  
24 to comply with the terms of probation, the Board may suspend or revoke the license. If a

1 license to practice in this Territory is suspended, the holder of the license may not practice  
2 during the term of suspension. A person whose license has been suspended or revoked by  
3 the Board and who thereafter practices or attempts or offers to practice in the Territory,  
4 unless the period of suspension has expired or been modified by the Board or the license  
5 reinstated, is guilty of a felony.

6 (d) “Unprofessional or dishonorable conduct,” as used in this section, means,  
7 conducts of a licensee that includes the following:

8 (1) Fraud or misrepresentation in applying for or procuring a dental or  
9 dental hygiene license or in connection with applying for or procuring periodic  
10 renewal of a dental license;

11 (2) Cheating on or attempting to subvert any licensing examination;

12 (3) The conviction of a felony by any court of competent jurisdiction,  
13 whether or not related to the practice of dentistry or dental hygiene, or the entry of a  
14 guilty or nolo contendere plea to a felony charge before a court of competent  
15 jurisdiction;

16 (4) Conduct likely to deceive, defraud or harm the public;

17 (5) Disruptive behavior, or interaction with patients, family members or  
18 others which interferes with patient care or could reasonably be expected to  
19 adversely impact the quality of care rendered to a patient;

20 (6) Willfully or negligently violating the confidentiality of patients  
21 except as required by law;

22 (7) Negligence in the practice of dentistry or dental hygiene as  
23 determined by the Board;

1           (8)    Being found mentally incompetent by any court of competent  
2 jurisdiction;

3           (9)    Being found by the Board to be physically or mentally unable to  
4 engage safely in the practice of dentistry or dental hygiene;

5           (10)   Being found by the Board to have practiced or to have engaged in  
6 other behavior that demonstrates an incapacity or incompetence to practice dentistry  
7 or dental hygiene;

8           (11)   Being found to have used any false, fraudulent or deceptive statement  
9 in any document connected with the practice of dentistry or dental hygiene;

10          (12)   Being found by the Board to have practiced dentistry or dental  
11 hygiene under a false or assumed name;

12          (13)   Being found by the Board to have aided or abetted the practice of  
13 dentistry or dental hygiene by an unlicensed, incompetent or impaired person;

14          (14)   Being found by the Board to have allowed another person or  
15 organization to use the licensee's license to practice dentistry or dental hygiene;

16          (15)   Being found by the Board to have committed any act of sexual  
17 misconduct, including sexual contact with a patient or third party that exploits the  
18 patient relationship in a sexual way;

19          (16)   Conviction of violating any Territorial or federal law or regulations  
20 relating to controlled substances;

21          (17)   Obtaining any fee by fraud, deceit or misrepresentation;

22          (18)   Employing abusive billing practices;

23          (19)   Violating the American Dental Association's Principles of Ethics and  
24 Code of Professional Conduct;

1           (20) Directly or indirectly giving or receiving any fee, commission, rebate  
2 or other compensation for professional services not actually and personally rendered,  
3 though this prohibition does not preclude the legal functioning of lawful professional  
4 partnerships, corporations or associations;

5           (21) Disciplinary action of another territory, state or other jurisdiction  
6 against a license or other authorization to practice dentistry or dental hygiene based  
7 upon acts or conduct by the licensee similar to acts or conduct that would constitute  
8 grounds for action as defined in this section, a certified copy of the record of the  
9 action taken by the other territory, state or other jurisdiction being conclusive  
10 evidence thereof;

11           (22) Failure to report to the Board any adverse action taken against the  
12 licensee by another licensing jurisdiction, United States or foreign, by any peer  
13 review body, by any health care institution, by any professional or dental society or  
14 association, by any governmental agency, by any law enforcement agency or by any  
15 court for acts or conduct similar to acts or conduct that would constitute grounds for  
16 action as defined in this section;

17           (23) Failure to report to the Board the surrender of a license or other  
18 authorization to practice dentistry or dental hygiene in another state or jurisdiction,  
19 or while under disciplinary investigation by any of those authorities or bodies for  
20 acts or conduct similar to acts or conduct that would constitute grounds for action as  
21 defined in this section;

22           (24) Failure to report to the Board any adverse judgment, award or  
23 settlement against the licensee resulting from a dental liability claim related to acts

1 or conduct similar to acts or conduct that would constitute grounds for action as  
2 defined in this section;

3 (26) Failure to provide pertinent and necessary dental records to another  
4 dentist or patient in a timely fashion when requested to do so by the subject patient  
5 or by a legally designated representative of the subject patient;

6 (27) Improper management of dental records, including failure to maintain  
7 timely, legible, accurate, and complete dental records;

8 (28) Failure to furnish the Board, its investigators or representatives,  
9 information legally requested by the Board;

10 (29) Failure to cooperate with a lawful investigation conducted by the  
11 Board;

12 (30) Violation of any provision of this subchapter or regulations of the  
13 Board or of an action, stipulation or agreement of the Board;

14 (31) Engaging in conduct calculated to or having the effect of bringing the  
15 dental profession into disrepute, including violation of any provision of a national  
16 code of ethics acknowledged by the Board;

17 (32) Failure to follow generally accepted infection control procedures;

18 (33) Failure to comply with any state or Territorial statute or Board  
19 regulation regarding a licensee's reporting responsibility for HIV, HVB hepatitis B  
20 virus, or HVC hepatitis C virus sero-positive status;

21 (34) Practicing dentistry or dental hygiene in another state, territory or  
22 jurisdiction without appropriate licensure; or

23 (35) Conduct that violates patient trust and exploits the dental-patient  
24 relationship for personal gain.

1 **§74 Procedures for enforcement of disciplinary action**

2 (a) The Board may commence legal action to enforce the provisions of this  
3 subchapter and may exercise full discretion and authority with respect to disciplinary  
4 actions.

5 (b) Administrative procedures as established by the Board must provide for  
6 investigation of charges by the Board; notice of charges to the accused; an opportunity for a  
7 fair and impartial hearing for the accused before the Board; an opportunity for  
8 representation of the accused by counsel; the presentation of testimony, evidence and  
9 argument; subpoena power and attendance of witnesses; a record of proceedings; and  
10 judicial review by the courts in accordance with the standards established by the jurisdiction  
11 for such review. The Board has subpoena authority to conduct comprehensive reviews of a  
12 dentist's or a dental hygienist's patient and office records and administrative authority to  
13 access otherwise protected peer review records.

14 (c) In its role as trier of fact, the Board shall use the preponderance of the  
15 evidence as its standard.

16 (d) The Board may summarily suspend a license prior to a formal hearing when  
17 it determines such action is required due to imminent threat to public health and safety. The  
18 Board may summarily suspend a license by means of a vote conducted by telephone  
19 conference call or other electronic means if a simple majority of the membership determines  
20 such prompt action is required. Proceedings for a formal hearing must be instituted  
21 simultaneously with the summary suspension.

22 (e) The Board may issue a cease and desist order and may obtain an injunction  
23 by a court of competent jurisdiction to restrain any person or any corporation or association  
24 and its officers and directors from violating this subchapter. Violation of such an injunction

1 is punishable in accordance with the determination of such court. No proof of actual  
2 damage to any person is e required for issuance of a cease and desist order or an injunction,  
3 nor does issuance of an injunction relieve those enjoined from criminal prosecution for  
4 violation of this subchapter.

5 (f) Except as provided in section 77 (b), all of the Board's final disciplinary  
6 actions and license denials, including related findings of fact and conclusions of law, are  
7 matters of public record. The Board shall report all actions and denials promptly to any data  
8 repository required by law. Voluntary surrender of and voluntary limitations on the dental  
9 or dental hygienist license of any person are also be matters of public record and must also  
10 be reported to any data repository required by law.

#### 11 **§75 Anesthesia Administration**

12 (a) The Board shall establish regulations pertaining to the administration by  
13 dentists of nitrous oxide analgesia, conscious sedation, deep sedation and general anesthesia.

14 (b) The Board or its agent may evaluate credentials, facilities, equipment,  
15 personnel, and procedures prior to issuing permits to allow the administration of agents that  
16 are utilized in providing analgesia, sedation or general anesthesia and may re-evaluate the  
17 credentials, facilities, equipment, personnel, and procedures at its discretion.

18 (c) The Board may suspend or revoke the license of any dentist who fails to  
19 comply with anesthesia- related r regulations of the Board.

#### 20 **§76 Advertising Requirements**

21 All advertising must comply with the American Dental Association's Principles of  
22 Ethics and Code of Professional Conduct.

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1    **§77    Protected actions and communications**

2           (a)    No monetary liability on the part of, and no cause of action for damages may  
3 arise against any serving or former member, officer, administrator, staff member, committee  
4 member, examiner, representative, agent, employee, consultant, witness or any other person  
5 serving or having served the Board either as a part of the Board's operation or as an  
6 individual as a result of any act, omission, proceeding, conduct or decision related to duties  
7 undertaken or performed in good faith and within the scope of the function of the Board.

8           (b)    Every communication made by or on behalf of any person, institution,  
9 agency or organization to the Board or to any person designated by the Board relating to an  
10 investigation or the initiation of an investigation, whether by way of report, complaint or  
11 statement is privileged and confidential. No action or proceeding, civil or criminal, is  
12 permitted against any such person, institution, agency or organization by whom or on whose  
13 behalf such a communication was made in good faith.

14           **SECTION 2. Licensure or Certification under prior law**

15           Any person licensed or certified as a dentist or dental hygienist under title 27 Virgin  
16 Islands Code, chapter 1 or any prior law of Virgin Islands, whose license is valid on the  
17 effective date of this Act remains licensed under this title 27 Virgin islands Code,  
18 subchapter II, as reenacted in section 1 of this Act and is entitled to license renewal as  
19 provided in this Act.

20           **SECTION 3.** Title 3 Virgin Islands Code, chapter 23, Section 415(b) (2) is  
21 amended in the following instances:

22           (a)    The First sentence is amended by:

23                   (1)    inserting a subparagraph designator “(A)” after “Examiners—“and  
24           before “Five”; and



1           (2)     inserting after the words, "Virgin Islands", the phrase, "for at least  
2     five years before the date of appointment";

3           (b)     The third sentence is amended by striking "Not more than", by striking "any  
4     one" and inserting after "district" the following: "of St. Thomas and St. John, and two of  
5     shall reside in the district of St. Croix"; and

6           (c)     Subparagraph (B) is added to read as follows: "(B) One dental hygienist who  
7     must be a resident of the Virgin Islands; and one member of the public of recognized ability  
8     and integrity in a non-healthcare profession, who has been resident of the Virgin Islands for  
9     at least five years."

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### **BILL SUMMARY**

12           This proposal revises and re-enacts the Dental Healthcare Act, generally updating  
13     the statute, adding definitions, providing for the funding of the Board by its own fees, and  
14     increasing the size of the Board by adding a dental hygienist and a member of the public, in  
15     addition to other changes.

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17     **BR13-1074/ Reviewed by YLT 3-12-14**18     **G30-0014**

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