

153.33 Powers of board.

Subject to the provisions of this chapter, any provision of this subtitle to the contrary notwithstanding, the board shall exercise the following powers:

1. To initiate investigations of and conduct hearings on all matters or complaints relating to the practice of dentistry, dental hygiene, or dental assisting or pertaining to the enforcement of any provision of this chapter, to provide for mediation of disputes between licensees or registrants and their patients when specifically recommended by the board, to revoke or suspend licenses or registrations, or the renewal thereof, issued under this or any prior chapter, to provide for restitution to patients, and to otherwise discipline licensees and registrants.

Subsequent to an investigation by the board, the board may appoint a disinterested third party to mediate disputes between licensees or registrants and patients. Referral of a matter to mediation shall not preclude the board from taking disciplinary action against the affected licensee or registrant.

2. To appoint investigators, who shall not be members of the examining board, to administer and aid in the enforcement of the provisions of law relating to those persons licensed to practice dentistry and dental hygiene, and persons registered as dental assistants. The amount of compensation for the investigators shall be determined pursuant to chapter 8A, subchapter IV. Investigators authorized by the board of dental examiners have the powers and status of peace officers when enforcing this chapter and chapters 147 and 272C.

3. All employees needed to administer this chapter shall be appointed pursuant to the merit system.

4. To initiate in its own name or cause to be initiated in a proper court appropriate civil proceedings against any person to enforce the provisions of this chapter or this subtitle relating to the practice of dentistry, and the board may have the benefit of counsel in connection therewith. Any such judicial proceeding as may be initiated by the board shall be commenced and prosecuted in the same manner as any other civil action and injunctive relief may be granted therein without proof of actual damage sustained by any person but such injunctive relief shall not relieve the person so enjoined from criminal prosecution by the attorney general or county attorney for violation of any provision of this chapter or this subtitle relating to the practice of dentistry.

5. In any investigation made or hearing conducted by the board on its own motion, or upon written complaint filed with the board by any person, pertaining to any alleged violation of this chapter or the accusation against any licensee or registrant, the following procedure and rules so far as material to such investigation or hearing shall obtain:

a. The accusation of such person against any licensee or registrant shall be reduced to writing, verified by some person familiar with the facts therein stated, and three copies thereof filed with the board.

b. If the board shall deem the charges sufficient, if true, to warrant suspension or revocation of license or registration, it shall make an order fixing the time and place for hearing thereon and requiring the licensee or registrant to appear and answer thereto, such order, together with a copy of the charges so made to be served upon the accused at least twenty days before the date fixed for hearing, either personally or by certified or registered mail, sent to the licensee's or registrant's last known post office address as shown by the records of the board.

c. At the time and place fixed in said notice for said hearing, or at any time and place to which the said hearing shall be adjourned, the board shall hear the matter and may take evidence, administer oaths, take the deposition of witnesses, including the person accused, in the manner provided by law in civil cases, compel the appearance of witnesses before it in person the same as in civil cases by subpoena issued over the

signature of the chairperson of the board and in the name of the state of Iowa, require answers to interrogatories and compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation or relating to the hearing.

d. In all such investigations and hearings pertaining to the suspension or revocation of licenses or registrations, the board and any person affected thereby may have the benefit of counsel, and upon the request of the licensee or registrant or the licensee's or registrant's counsel the board shall issue subpoenas for the attendance of such witnesses in behalf of the licensee or registrant, which subpoenas when issued shall be delivered to the licensee or registrant or the licensee's or registrant's counsel. Such subpoenas for the attendance of witnesses shall be effective if served upon the person named therein anywhere within this state, provided, that at the time of such service the fees now or hereafter provided by law for witnesses in civil cases in district court shall be paid or tendered to such person.

e. In case of disobedience of a subpoena lawfully served hereunder, the board or any party to such hearing aggrieved thereby may invoke the aid of the district court in the county where such hearing is being conducted to require the attendance and testimony of such witnesses. Such district court of the county within which the hearing is being conducted may, in case of contumacy or refusal to obey such subpoena, issue an order requiring such person to appear before said board, and if so ordered give evidence touching the matter involved in the hearing. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

f. If the licensee or registrant pleads guilty, or after hearing shall be found guilty by the board of any of the charges made, it may suspend for a limited period or revoke the license or registration, and the last renewal thereof, and shall enter the order on its records and notify the accused of the revocation or suspension of the person's license or registration, as the case may be, who shall thereupon forthwith surrender that license or registration to the board. Any such person whose license or registration has been so revoked or suspended shall not thereafter and while such revocation or suspension is in force and effect practice dentistry, dental hygiene, or dental assisting within this state.

g. The findings of fact made by the board acting within its power shall, in the absence of fraud, be conclusive, but the district court shall have power to review questions of law involved in any final decision or determination of the board; provided, that application is made by the aggrieved party within thirty days after such determination by certiorari, mandamus or such other method of review or appeal permitted under the laws of this state, and to make such further orders in respect thereto as justice may require.

h. Pending the review and final disposition thereof by the district court, the action of the board suspending or revoking such license or registration shall not be stayed.

6. To adopt rules regarding infection control in dental practice which are consistent with standards of the federal Occupational Safety and Health Act of 1970, 29 U.S.C. § 651-678, and recommendations of the centers for disease control.

7. To promulgate rules as may be necessary to implement the provisions of this chapter.

[C71, 73, 75, 77, 79, 81, § 153.33]

90 Acts, ch 1112, § 1; 92 Acts, ch 1121, § 2; 93 Acts, ch 41, § 2; 2002 Acts, ch 1108, §19, 20; 2003 Acts, ch 44, §38, 39; 2003 Acts, ch 145, §200