What Happens to a Dentist’s License Following an Arrest for Sexual Activity with a Minor?

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The practice of dentistry in Texas is regulated by the Dental Practice Act,\(^1\) select portions of the Texas Occupations Code,\(^2\) and the Texas State Board of Dental Examiners (Board) Rules and Regulations.\(^3\) Which, if any, of these provisions is triggered when a dentist, licensed by the Board, is arrested and charged in federal court with interstate travel to engage in sexual activity with a minor? What, if any, effect does the arrest have on his ability to practice dentistry in Texas?

A Dallas dentist was arrested by the FBI in San Diego, California, and charged with interstate travel to engage in sexual activity with a minor. The arrest was part of a FBI sting after an FBI agent infiltrated the North American Man/Boy Love Association, a group that promotes pedophilia.\(^4\)

The Texas Occupations Code provides authority for a licensing authority, such as the Board, to revoke or suspend a person’s license to practice dentistry if the person has been convicted of a felony.\(^5\) The statute has both permissive and mandatory provisions. The permissive provision provides that a licensing body may suspend or revoke a license on the grounds that a person has been convicted of a felony or misdemeanor that “directly relates to the duties and the responsibilities of the licensed occupation.”\(^6\) The statute also lists various factors that the licensing body shall consider in determining whether a

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\(^1\) TEX. OCC. CODE ANN. § 251.001 (Vernon 2003).
\(^2\) Id. §§ 53.021, 53.022 (Vernon 2003).
\(^3\) 22 TEX. ADMIN. CODE §§ 101.1 - 119.8 (2005).
\(^4\) Matt Stiles, Dentist is Latest Target of Sting, DALLAS MORNING NEWS, February 16, 2005, at 1B.
\(^5\) TEX. OCC. CODE ANN § 53.021 (Vernon 2003).
\(^6\) Id. § 53.021(a).
criminal conviction directly relates to an occupation. The mandatory license revocation provision is activated upon imprisonment following a felony conviction.

The Board also has promulgated certain rules and regulations pertaining to the practice of dentistry by persons with criminal backgrounds. These regulations generally track the permissive and mandatory provisions set forth in the Texas Occupations Code:

(b) The State Board of Dental Examiners . . . may revoke or suspend an existing license, or deny application for licensure because of a person’s conviction under state or federal law of a felony or misdemeanor that directly relates to the duties and responsibilities of the profession for which the person seeks a license.

(c) No person currently serving in prison for conviction of a felony under any state or federal law is eligible to obtain a license to practice dentistry or dental hygiene. The felony conviction of a person holding a license to practice dentistry or dental hygiene shall be cause for initiation of discipline procedures against such person.

The regulations also identify the various crimes the Board considers to be of such serious nature that they relate to the fitness to practice dentistry. These crimes include, but are not limited to, sexual assault and any sexual offense against a child or any felony subjecting a defendant to the sex offender registration.

The question thus becomes: What effect does a dentist’s arrest and charge for sexual activities with a minor have on his ability to provide dental services in Texas? The answer may be “none.” The relevant statute and regulation clearly require a conviction of a felony or misdemeanor that directly relates to the duties and responsibilities of dental practice before license revocation or suspension can occur. The

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7 Id. § 53.022
8 Id. § 53.021(b)
9 22 TEX. ADMIN. CODE § 101.8(b) and (c) (Vernon 2002).
10 Id.
11 Id. § 101.8(e).
12 Id. § 101.8(e)(9) and (11).
fact that the dentist only has been arrested and charged with interstate travel to engage in
sexual activity with a minor does not appear to be sufficient enough to activate the
license revocation and suspension provisions set forth in Texas law.