

Approved 4-11-92  
Date                     

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Carol H. Sader at  
Chairperson

5:00 /a.m. on March 25, 1992 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

- Emalene Correll, Research
- Norman Furse, Revisor
- Sue Hill, Committee Secretary

Conferees appearing before the committee:

Chair called meeting to order, drawing attention to bills previously heard. She noted there was a motion on the table to amend HB 3041, and she requested Rep. Wagle to review the motion that had been made at an earlier meeting.

Rep. Wagle stated she had moved to amend HB 3041 by adding language, "to exempt psychiatric hospitals, psychiatric treatment units in hospitals within a medical facility, and substance abuse treatment programs within a medical treatment facility from the law and provide a well-ventilated smoking area". The motion had been seconded by Rep. Samuelson.

A lengthy discussion began, i.e., would the smoking area be only for patients; some viewed exceptions as a breakdown on the intent of the bill; some psychiatric facilities agree with a non-smoking policy, others do not; staff noted clarification of the treatment facility was important.

Vote taken. Motion carried.

Rep. Praeger moved to pass HB 3041 favorably as amended, seconded by Rep. Amos. No further discussion. Vote taken. Chair in doubt. Show of hands indicated 9 in favor, 6 opposed. Motion carried.

DISCUSSION BEGAN ON HB 3042.

Clarification was requested on "enclosed office space"; some noted that the building has withstood smoking since it was built over 120 years ago and it seems to be holding up fine; some viewed the smoke in the halls as unhealthy. Discussion continued in regard to amendments made last year with similar language.

Rep. Bishop moved to pass HB 3042, seconded by Rep. White. No further discussion. Vote taken. Motion carried.

DISCUSSION BEGAN ON HB 3048.

Mr. Edds, Revisor, noted per request from Chairperson Sader, a Substitute on HB 3048 had been provided to members, (see Attachment No. 1). This was necessary for drafting and implementation purposes. Mr. Edds explained in great detail the changes that were proposed in HB 3048 that would eliminate duplicative language. Re-drafting was done because of the tax structure. Language now reads a new tax has been imposed as an increase on an existing tax and those funds have been earmarked for disease prevention and all the various ideas proposed in the original language of the bill. He detailed the bill and gave rationale. The only changes that were made were for tax drafting purposes, he stated.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S, Statehouse, at 5:00 a.m./p.m. on March 25, 1992

DISCUSSION CONTINUED ON HB 3048.

It was noted Arden Ensley wrote the original draft, then Mr. Edds was requested to write the redraft.

Some members feel the "Strategic Health Plan" mentioned is envisioned as a future health plan. Some view the tax as excessive; some view the bill as not having the importance of other legislation before this Committee.

At this point, Rep. Wagle moved to report HB 3048 unfavorably, seconded by Rep. Grant. Discussion continued. Some view this legislation as important as any other; some believe language should be more specific for direction of funding; some view smokers as all too-often being asked to bear more of the tax burden than nonsmokers.

Vote taken. Chair in doubt. Show of hands indicated 11 in favor, 7 opposed. Motion carried. HB 3048 will be reported adversely.

DISCUSSION BEGAN ON HB 3126.

Language proposed in balloon on HB 3126 was provided by Subcommittee. (See Attachment No. 2). Chair thanked the Subcommittee Chair, Rep. White, and also Rep. Bishop and Rep. Praeger for their work.

Mr. Furse detailed proposed changes in Attachment No. 2, section by section, giving rationale for technical changes, noting some changes were for clarification purposes. He detailed new law, and per request from Committee, reviewed current statute.

At this point Mr. Furse distributed (Attachment No.3), a cut for proposed amendment to HB 3126. He detailed rationale, noting this would be language to conform with current statutes.

Rep. White then detailed the Subcommittee action in regard to HB 3126, noting recommendations that had been suggested by conferees and members. The Subcommittee decided on language that is provided in Attachment No. 2. and Rep. White moved to adopt the Subcommittee's recommendations to amend HB 3126, and to also include the technical amendment suggestions by Mr. Furse indicated in Attachment No.3. Motion seconded by Rep. Bishop. Discussion continued, i.e., procedures approved by Dental Practice Act; delegating procedures too restrictive; some viewed delegating too many procedures by the dentist would lead to problems later on.

Vote taken. Motion carried.

Rep. Praeger moved to report HB 3126 favorably as amended, seconded by Rep. Bishop. Discussion continued. Vote taken. Motion carried.

Rep. White agreed to carry HB 3126 on the floor of the House.

Chair announced Committee will meet again tomorrow at 1:30 p.m. for hearings, then will meet again at 5:00 p.m., if necessary to work the following bills. (SB 182, SB 631, SB 737, SB 728. Chair announced Committee may also need to schedule a meeting on Friday, March 27th one half hour past adjournment of the House if necessary.

Chair adjourned the meeting at 6:18 p.m.



## SUBSTITUTE for HOUSE BILL NO. 3048

By Committee on Public Health and Welfare

AN ACT increasing the rate of taxation imposed upon cigarettes and tobacco products for the purposes of providing funds for programs for the prevention of tobacco-related diseases and to pay certain costs of medical care and health services attributable thereto; amending K.S.A. 79-3310, 79-3310b, 79-3311, 79-3312, 79-3371, 79-3372, 79-3378 and 79-3387 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. In recognition of the fact that the use of tobacco is one of the most preventable causes of death and disease in this state; that the cost of medical care and health services for tobacco-related diseases is a major burden upon the taxpayers of the state; and that in addition to suffering and personal loss by individuals, reduced productivity and other costs resulting from tobacco-related diseases impose an immense burden upon the economy of this state, the addition to the tax imposed by this act is levied for the purpose of producing revenue to be used to defray costs incurred by taxpayers of the state resulting from such use of tobacco and to improve the overall health of the population of the state.

Sec. 2. K.S.A. 79-3310 is hereby amended to read as follows: 79-3310. There is imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. The rate of such tax shall be ~~\$.24~~ \$.34 on each 20 cigarettes or fractional part thereof or ~~\$.30~~ \$.425 on each 25 cigarettes, as the case requires. Such tax shall be collected and paid to the director as provided in this act. Such tax shall be paid only once and shall be paid by the wholesale dealer first receiving the cigarettes as herein provided.

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The taxes imposed by this act are hereby levied upon all sales of cigarettes made to any department, institution or agency of the state of Kansas, and to the political subdivisions thereof and their departments, institutions and agencies.

Sec. 3. K.S.A. 79-3310b is hereby amended to read as follows: 79-3310b. On or before ~~October-31-1985~~ July 31, 1992, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on ~~October-1-1985~~ July 1, 1992. A tax of ~~\$.08~~ \$.10 on each 20 cigarettes or fractional part thereof or ~~\$.10~~ \$.125 on each 25 cigarettes, as the case requires and ~~\$.08--or--\$.10~~ \$.10 or \$.125, as the case requires upon all tax stamps and all meter imprints purchased from the director and not affixed to cigarettes prior to ~~October-1-1985~~ July 1, 1992, is hereby imposed and shall be due and payable on or before ~~October--31-1985~~ July 1, 1992. The tax imposed upon such cigarettes, tax stamps and meter imprints shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state-general-fund tobacco-related disease health protection fund.

Sec. 4. K.S.A. 79-3311 is hereby amended to read as follows: 79-3311. The director shall design and designate indicia of tax payment to be affixed to each package of cigarettes as provided by this act. The director shall sell water applied stamps only to licensed wholesale dealers in the amounts of 1,000 or multiples thereof. Stamps applied by the heat process shall be sold only in amounts of 30,000 or multiples thereof, except that such stamps which are suitable for packages containing 25 cigarettes each shall be sold in amounts prescribed by the director. Meter imprints shall be sold only in amounts of 10,000 or multiples thereof. Water applied stamps in amounts of 10,000 or multiples thereof and stamps applied by the heat process and meter imprints

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shall be supplied to wholesale dealers at a discount of ~~2.65%~~ 1.87% from the face value thereof, and shall be deducted at the time of purchase or from the remittance therefor as hereinafter provided. Any wholesale cigarette dealer who shall file with the director a bond, of acceptable form, payable to the state of Kansas with a corporate surety authorized to do business in Kansas, shall be permitted to purchase stamps, and remit therefor to the director within 30 days after each such purchase, up to a maximum outstanding at any one time of 85% of the amount of the bond. Failure on the part of any wholesale dealer to remit as herein specified shall be cause for forfeiture of such dealer's bond. All revenue received from the sale of such stamps or meter imprints shall be remitted to the state treasurer daily. Upon receipt thereof, the state treasurer shall deposit the entire amount thereof in the state treasury. The state treasurer shall first credit such amount thereof as the director shall order to the cigarette tax refund fund and shall credit 5/17 of the remaining balance to the tobacco-related disease health protection fund and 12/17 of such balance to the state general fund. A refund fund designated the cigarette tax refund fund not to exceed \$10,000 at any time shall be set apart and maintained by the director from taxes collected under this act and held by the state treasurer for prompt payment of all refunds authorized by this act. Such cigarette tax refund fund shall be in such amount as the director shall determine is necessary to meet current refunding requirements under this act.

The wholesale cigarette dealer shall affix to each package of cigarettes stamps or tax meter imprints required by this act prior to the sale of cigarettes to any person, by such dealer or such dealer's agent or agents, within the state of Kansas. The director is empowered to authorize wholesale dealers to affix revenue tax meter imprints upon original packages of cigarettes and is charged with the duty of regulating the use of tax meters to secure payment of the proper taxes. No wholesale dealer shall

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affix revenue tax meter imprints to original packages of cigarettes without first having obtained permission from the director to employ this method of affixation. If the director approves the wholesale dealer's application for permission to affix revenue tax meter imprints to original packages of cigarettes, the director shall require such dealer to file a suitable bond payable to the state of Kansas executed by a corporate surety authorized to do business in Kansas. The director may, to assure the proper collection of taxes imposed by the act, revoke or suspend the privilege of imprinting tax meter imprints upon original packages of cigarettes. All meters shall be under the direct control of the director, and all transfer assignments or anything pertaining thereto must first be authorized by the director. All inks used in the stamping of cigarettes must be of a special type devised for use in connection with the machine employed and approved by the director. All repairs to the meter are strictly prohibited except by a duly authorized representative of the director. Requests for service shall be directed to the director. Meter machine ink imprints on all packages shall be clear and legible. If a wholesale dealer continuously issues illegible cigarette tax meter imprints, it shall be considered sufficient cause for revocation of such dealer's permit to use a cigarette tax meter.

A licensed wholesale dealer may, for the purpose of sale in another state, transport cigarettes not bearing Kansas indicia of tax payment through the state of Kansas provided such cigarettes are contained in sealed and original cartons.

Sec. 5. K.S.A. 79-3312 is hereby amended to read as follows: 79-3312. The director shall redeem any unused stamps or meter imprints that any wholesale dealer presents for redemption within six months after the purchase thereof, at the face value less ~~2.65%~~ 1.87% thereof if such stamps or meter imprints have been purchased from the director. The director shall prepare a voucher showing the net amount of such refund due, and the director of

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accounts and reports shall draw a warrant on the state treasurer for the same. Wholesale dealers shall be entitled to a refund of the tax paid on cigarettes which have become unfit for sale upon proof thereof less ~~2.65%~~ 1.87% of such tax.

Sec. 6. K.S.A. 79-3371 is hereby amended to read as follows: 79-3371. A tax is hereby imposed upon the privilege of selling or dealing in tobacco products in this state by any person engaged in business as a distributor thereof, at the rate of ~~ten-percent (10%)~~ 30% of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor (a) brings or causes to be brought into this state from without the state tobacco products for sale; (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (c) ships or transports tobacco products to retailers in this state to be sold by those retailers.

Sec. 7. K.S.A. 79-3372 is hereby amended to read as follows: 79-3372. On or before July ~~20, 1972~~ 31, 1992, each distributor having a place of business in this state shall file a report with the director in such form as the director may prescribe, showing the tobacco products on hand at 12:01 o'clock a.m. on July 1, ~~1972~~ 1992. A tax at a rate equal to ~~ten-percent (10%)~~ 20% of the wholesale sales price of such tobacco products is hereby imposed upon such tobacco products and shall be due and payable on or before July ~~20, 1972~~ 31, 1992. The tax upon such tobacco products shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the tobacco-related disease health protection fund.

Sec. 8. K.S.A. 79-3378 is hereby amended to read as follows: 79-3378. On or before the ~~twentieth~~ 20th day of each calendar month every distributor with a place of business in this state shall file a return with the director showing the quantity and wholesale sales price of each tobacco product ~~(1)~~ (a) brought, or caused to be brought, into this state for sale; and ~~(2)~~ (b) made,

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manufactured, or fabricated in this state for sale in this state during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the director. Each return shall be accompanied by a remittance for the full tax liability shown therein, less ~~four-percent-(4%)~~ 1.33% of such liability as compensation to reimburse the distributor for ~~his---or---her~~ expenses incurred in the administration of this act. As soon as practicable after any return is filed, the director shall examine the return. If the director finds that, ~~in--his--or--her--judgment,~~ the return is incorrect and any amount of tax is due from the distributor and unpaid, ~~he-or-she~~ the director shall notify the distributor of the deficiency. If a deficiency disclosed by the director's examination cannot be allocated ~~by-him~~ to a particular month or months, ~~he--or--she~~ the director may nevertheless notify the distributor that a deficiency exists and state the amount of tax due. Such notice shall be given to the distributor by registered or certified mail.

Sec. 9. K.S.A. 79-3387 is hereby amended to read as follows: 79-3387. All revenue collected or received by the director from the ~~licenses-and-taxes~~ license fees imposed by this act shall be deposited monthly with the state treasurer ~~and--by--him--or--her~~ credited who shall credit the same to the state general fund. All revenue collected or received by the director from the taxes imposed by this act shall be deposited daily with the state treasurer who shall credit each such remittance as follows: (a) Two-thirds to the tobacco-related disease health protection fund; and (b) one-third to the state general fund.

New Sec. 10. There is hereby created the tobacco-related disease health protection fund in the state treasury. Moneys

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credited to such fund shall be expended or transferred only for the purposes of: (a) Programs for the prevention and reduction in the use of tobacco; (b) program for the development, planning and implementation of the states strategic health plan; (c) payment to hospitals and clinics for treatment of patients who are unable to pay for treatment and for whom payment will not be made through private coverage or by any program funded in whole or in part by the federal government; and (d) payment to physicians for service to patients unable to pay for such services and for whom payment will not be made through private coverage or by any program funded in whole or in part by the federal government. All expenditures from such fund shall be made in accordance with appropriation acts.

Sec. 11. K.S.A. 79-3310, 79-3310b, 79-3311, 79-3312, 79-3371, 79-3372, 79-3378 and 79-3387 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.

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HOUSE BILL No. 3126

By Committee on Public Health and Welfare

2-25

Subcommittee Markup

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8 AN ACT concerning dentistry; relating to the delegation of certain  
9 acts; concerning the practice of dental hygiene; authorizing del-  
10 egation of certain dental acts to dental assistants; amending K.S.A.  
11 65-1423 and 65-1456 and repealing the existing sections.

12  
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 65-1423 is hereby amended to read as follows:  
15 65-1423. Nothing in this act shall apply to the following practices,  
16 acts, and operations:

17 (a) To the practice of ~~his profession by a physician or surgeon~~  
18 ~~licensed as such a person licensed to practice medicine and surgery~~  
19 under the laws of this state, unless ~~he~~ *such person* practices dentistry  
20 as a specialty; or

21 (b) to the giving by a qualified anaesthetist or registered nurse  
22 of an anaesthetic for a dental operation under the direct supervision  
23 of a licensed dentist or ~~physician~~ *person licensed to practice med-*  
24 *icine and surgery;*

25 (c) the practice of dentistry in the discharge of their official duties  
26 by graduate dentists or dental surgeons in the United States army,  
27 navy, public health service, coast guard, or veterans' bureau; or

28 (d) the practice of dentistry by a licensed dentist of other states  
29 or countries at meetings of the Kansas state dental association or  
30 components thereof, or other like dental organizations approved by  
31 the board, while appearing as clinicians;

32 (e) to the filling of prescriptions of a licensed ~~and registered~~  
33 dentist as hereinafter provided by any person or persons, association,  
34 corporation, or other entity, for the construction, reproduction, or  
35 repair of prosthetic dentures, bridges, plates, or appliances to be  
36 used or worn as substitutes for natural teeth, provided that such  
37 person or persons, ~~associations~~ *association*, corporation, or other  
38 entity, shall not solicit or advertise, directly or indirectly by mail,  
39 card, newspaper, pamphlet, radio, or otherwise, to the general public  
40 to construct, reproduce, or repair prosthetic dentures, bridges,  
41 plates, or other appliances to be used or worn as substitutes for  
42 natural teeth;

(f) to the use of roentgen or x-ray machines or other rays for

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making radiograms or similar records, of dental or oral tissues under the supervision of a licensed dentist or physician: **Provided, however,** *person licensed to practice medicine and surgery except that such service shall not be advertised by any name whatever as an aid or inducement to secure dental patronage, and no person shall advertise that he such person has, leases, owns or operates a roentgen or x-ray machine for the purpose of making dental radiograms of the human teeth or tissues or the oral cavity, or administering treatment thereto for any disease thereof;*

(g) *except as hereinafter limited to the performance of any dental service of any kind by any person who is not licensed under this act, if such service is performed under the supervision of a dentist licensed under this act at the office of such licensed dentist: Provided, however, That such nonlicensed person shall not be allowed to perform or attempt to perform the following dental operations or services:*

(1) *Any and all removal of or addition to the hard or soft tissue of the oral cavity.*

(2) *Any and all diagnosis of or prescription for treatment for disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws, or adjacent structure.*

(3) *Any and all correction of malformation of teeth or of the jaws.*

(4) *Any and all administration of general or local anaesthesia of any nature in connection with a dental operation.*

(5) *A prophylaxis.*

Sec. 2. K.S.A. 65-1456 is hereby amended to read as follows: 65-1456. (a) The board may suspend or revoke the license, license certificate and renewal certificate of any ~~registered and~~ licensed dentist who shall permit any dental hygienist operating under such dentist's supervision to perform any operation other than that permitted under the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, or acts amendatory *of the provisions thereof or supplemental thereto*, and may suspend or revoke the license of any dental hygienist found guilty of performing any operation other than those permitted under article 14 of chapter 65 of the Kansas Statutes Annotated, or acts amendatory *of the provisions thereof or supplemental thereto*. No license or certificate of any dentist or dental hygienist shall be suspended or revoked in any administrative proceedings without first complying with the notice and hearing requirements of the Kansas administrative procedure act.

(b) (1) The practice of dental hygiene shall include those educational, preventive and therapeutic procedures which result in the

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removal of extraneous deposits, stains and debris from the teeth and the rendering of smooth surfaces of the teeth to the depths of the gingival sulci.

(2) Included among these educational, the preventive and therapeutic procedures are the instruction of the patient as to daily personal care;

(A) Protecting the teeth and supporting structure from dental caries; and disease;

(B) the scaling and polishing of the crown tooth surfaces and;

(C) administration of local (block and infiltration) anaesthesia and nitrous oxide;

(D) removal of overhanging restoration margins and periodontal surgery materials;

periodontal  
by hand scaling instruments

(E) the planing of the root surfaces, in addition to the curettage of those soft tissues lining the free gingiva to the depth of the gingival sulcus; and

(F) instructing and educating patients in good oral hygiene technique; and

(F) such additional educational, preventive and therapeutic procedures as the board may establish by rules and regulations.

(G)

(c) Subject to such prohibitions, limitations and conditions as the board may prescribe by rules and regulations, any licensed dental hygienist may practice dental hygiene and may also perform such dental service as may be performed by a dental assistant under the provisions of K.S.A. 65-1423 section 3 and amendments thereto.

(d) The practice of dental hygiene shall be performed under the direct or indirect general supervision of a licensed dentist at the office of such licensed dentist except that the administration of local anesthesia shall be under the direct supervision of a licensed dentist at the office of the licensed dentist. The board may designate by rules and regulations the procedures which may be performed by a dental hygienist under direct supervision and the procedures which may be performed under the indirect supervision of a licensed dentist. The administration of local anesthesia shall be performed by a dental hygienist who has completed a course of instruction as the board may designate by rules and regulations. The degree of supervision of any additional procedures not listed under subsection (b)(2) shall be determined by the board.

(e) As used in this section, "indirect supervision" means that the dentist is in the dental office, authorizes the procedures and remains in the dental office while the procedures are being performed and:

(1) "Direct supervision" means that the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure and before dismissal of the patient evaluates

the performance.

(2) "General supervision" means a licensed dentist may delegate verbally or by written authorization the performance of a service, task or procedure to a licensed dental hygienist under the supervision and responsibility of the dentist, if the dental hygienist is licensed to perform the function, and the supervising dentist examines the patient at the time the dental hygiene procedure is performed, or during the seven calendar months preceding the performance of the procedure, except that the licensed hygienist shall not be permitted to diagnose a dental disease or ailment, prescribe any treatment or a regimen thereof, prescribe, order or dispense medication or perform any procedure which is irreversible or which involves the intentional cutting of the soft or hard tissue by any means. A dentist is not required to be on the premises at the time a hygienist performs a function delegated under this paragraph (2).

(f) Nothing in this act shall be construed to prevent a dentist from authorizing a dental hygienist employed by the dentist to ~~instruct and educate a patient in good oral hygiene technique or to provide~~ a medication as ordered by the dentist to a patient. This act does not prohibit removal of cementum by a dental hygienist during root planing and curettage.

(g) All work performed by a dental hygienist in the practice of dental hygiene, as defined in this act, shall be performed in the dental office of the supervising dentist ~~or dentists legally engaged in the practice of dentistry in this state~~, by whom the dental hygienist is employed, or under the ~~supervision of a supervising dentist in an alternative approved setting~~ including, but not limited to, an adult care home or the patient's home, provided that the hygienist is licensed to perform the delegated procedure and the supervising dentist examines the patient during the seven months preceding the performance of the procedure by the dental hygienist or at the time the procedure is performed, except where employed by schools, hospitals, state institutions, public health clinics or other institutions that have applied to and been approved by the Kansas dental board as a proper location for the performance of a dental procedure.

(h) The board may issue a permit to a licensed dental hygienist to provide dental screening as an employee of the state of Kansas, or any subdivision thereof, at any public institution or facility under the supervision of the governing body of such public institution or facility under such terms and conditions as the board may reasonably establish in such permit. Such permit shall be for a period of one year and shall be subject to renewal annually at the time the license for dental hygiene is renewed.

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as approved by the board

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New Sec. 3. (a) A person licensed to practice dentistry may delegate to any qualified and properly trained dental assistant acting under the dentist's direct supervision any dental act that a reasonable and prudent dentist would find is within the scope of sound dental judgment to delegate if, in the opinion of the delegating dentist, the act can be properly and safely performed by the person to whom the dental act is delegated and the act is performed in its customary manner, not in violation of this act or any other statute, and the dental assistant to whom the dental act is delegated is not represented to the public as being authorized to practice dentistry. A dentist may not:

(1) Delegate an act to an individual who, by order of the board, is prohibited from performing the act;

(2) delegate the administration and monitoring of nitrous oxide to a dental assistant unless such person has completed a course of instruction in the administration and monitoring of nitrous oxide approved by the board;

(3) delegate the performance of any of the following acts to a person not licensed as a dentist or dental hygienist:

(A) The removal of calculus from the natural and restored surfaces of exposed human teeth and restorations in the human mouth, provided that nothing herein shall be deemed to limit the delegation by a dentist of the polishing of exposed human teeth to a qualified dental assistant;

(B) root planing or the smoothing of roughened root surfaces;

(C) administration of local (block and infiltration) anesthesia; or

(D) any other act the delegation of which is prohibited by the rules and regulations of the board.

(4) delegate the performance of any of the following acts to a person not licensed as a dentist:

(A) Comprehensive examination or diagnosis and treatment planning;

(B) a surgical or cutting procedure on hard or soft tissue;

(C) the prescription of a drug, medication or work authorization;

(D) the placement of any final restoration;  or

(E) the administration of a general anesthetic agent   or

(b) As used in this section, a "dental assistant" is a person who is employed by and works in the office of a licensed, practicing dentist and who performs one or more delegated dental acts under the direct supervision, direction and responsibility of such dentist; "direct supervision" means the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure and, before dismissal of the patient, evaluates the

or  (F) the performance of direct pulp capping and pulpotomy.

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performance.

1 (c) The delegating dentist remains responsible for a dental act  
3 by a person performing a delegated dental act.

4 (d) The board may by rule and regulation establish guidelines (c)  
5 not inconsistent with this section regarding the types of dental acts  
6 that may be properly or safely delegated by a dentist to a qualified  
7 dental assistant including a determination as to which delegated  
8 dental acts, if any, require competency testing before a person may  
9 perform the act.

10 (e) A dental act that may be delegated by a dentist to a dental (d)  
11 assistant may also be delegated by a dentist to a dental hygienist.

12 (f) The board may adopt and enforce rules and regulations not  
13 inconsistent with the laws of this state to determine the number of  
14 dental hygienists which may be employed by a dentist as necessary  
15 to protect the public health and safety.

16 Sec. 4. K.S.A. 65-1423 and 65-1456 are hereby repealed.

17 Sec. 5. This act shall take effect and be in force from and after  
18 its publication in the statute book.

(e) This section shall be part of and supplemental to the dental practices act.

Sec. 4. (a) A person licensed to practice dentistry who delegates the performance of a dental act to another person remains responsible for the dental act by the person performing the delegated dental act.

(b) The board may adopt and enforce rules and regulations not inconsistent with the laws of this state to determine the number of dental hygienists which may be employed by a dentist as necessary to protect the public health and safety.

(c) This section shall be part of and supplemental to the dental practices act.

And by renumbering sections accordingly

Note: Subcommittee requested Revisor review statutes for other conforming amendments.



Section . K.S.A. 1991 Supp. 65-1436 is hereby amended to read as follows: 65-1436. (a) The Kansas dental board may refuse to issue the license provided for in this act, or may take any of the actions with respect to any dental or dental hygiene license as set forth in subsection (b), whenever it is established, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, that any applicant for a dental or dental hygiene license or any licensed dentist or dental hygienist practicing in the state of Kansas has:

(1) Committed fraud, deceit or misrepresentation in obtaining any license, money or other thing of value;

(2) habitually used intoxicants or drugs which have rendered such person unfit for the practice of dentistry or dental hygiene;

(3) been determined to be incompetent;

(4) committed gross, wanton or willful negligence in the practice of dentistry or dental hygiene;

(5) employed, allowed or permitted any unlicensed person or persons to perform any work in the licensee's office which constitutes the practice of dentistry or dental hygiene under the provisions of this act;

(6) willfully violated the laws of this state relating to the practice of dentistry or dental hygiene or the rules and regulations of the secretary of health and environment or of the board regarding sanitation;

(7) engaged in the division of fees, or agreed to split or divide the fee received for dental service with any person for bringing or referring a

In House Bill No. 3126, on page 5, line 37, striking "a" and inserting "an unlicensed"

*PKW*  
*3-25-92*  
*attm # 3*  
*5:00pm*

in violation of  
 the dental practices  
 or rules and regulations adopted pursuant thereto

And by renumbering sections and changing the repealer section and title accordingly

patient without the knowledge of the patient or the patient's legal representative, except the division of fees between dentists practicing in a partnership and sharing professional fees, or in case of one licensed dentist employing another;

(8) committed complicity in association with or allowed the use of the licensed dentist's name in conjunction with any person who is engaged in the illegal practice of dentistry;

(9) been convicted of a felony if the board determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust, or a misdemeanor involving moral turpitude;

(10) failed to pay license fees;

(11) used the name "clinic," "institute" or other title that may suggest a public or semipublic activity except that the name "clinic" may be used as authorized in K.S.A. 65-1435 and amendments thereto;

(12) committed, after becoming a licensee, any conduct which is detrimental to the public health, safety or welfare as defined by rules and regulations of the board; or

(13) engaged in a misleading, deceptive, untrue or fraudulent misrepresentation in the practice of dentistry or on any document connected with the practice of dentistry by knowingly submitting any misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement.

(b) Whenever it is established, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act,

*P. Alver*  
*3-25-92*  
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*5:02 pm*

That a licensee is in any of the circumstances or has committed any of the acts described in subsection (a), the Kansas dental board may take one or any combination of the following actions with respect to the license of the licensee:

(1) Revoke the license.

(2) Suspend the license for such period of time as may be determined by the board.

(3) Restrict the right of the licensee to practice by imposing limitations upon dental or dental hygiene procedures which may be performed, categories of dental disease which may be treated or types of patients which may be treated by the dentist or dental hygienist. Such restrictions shall continue for such period of time as may be determined by the board, and the board may require the licensee to provide additional evidence at hearing before lifting such restrictions.

(4) Grant a period of probation during which the imposition of one or more of the actions described in subsections (b)(1) through (b)(3) will be stayed subject to such conditions as may be imposed by the board including a requirement that the dentist or dental hygienist refrain from any course of conduct which may result in further violation of the dental practice act or the dentist or dental hygienist complete additional or remedial instruction. The violation of any provision of the dental practice act or failure to meet any condition imposed by the board as set forth in the order of the board will result in immediate termination of the period of probation and imposition of such other action as has been taken by

*J. H. W.*  
*3-25-92*  
*Attn # 3*  
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*5:10 pm*

he board.

(c) The board may upon its own motion or upon the request of any licensee who is a party to a licensure action require a physical or mental examination, or both, of such licensee either prior to a hearing to be held as a part of a licensure action or prior to the termination of any period of suspension or the termination of any restrictions imposed upon the licensee as provided in subsection (b).

P. H. H. C.  
3-25-92  
Attn = 3  
CJ 434  
5:00pm