

As Amended by House Committee

Session of 2012

HOUSE BILL No. 2631

By Committee on Health and Human Services

2-3

1 AN ACT concerning dental care; amending K.S.A. 2011 Supp. 65-1456
2 and 75-6102 and repealing the existing sections.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2011 Supp. 65-1456 is hereby amended to read as
6 follows: 65-1456. (a) The board may suspend or revoke the license of any
7 dentist who shall permit any dental hygienist operating under such dentist's
8 supervision to perform any operation other than that permitted under the
9 provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, ~~or~~
10 ~~acts amendatory thereof and amendments thereto~~, and may suspend or
11 revoke the license of any hygienist found guilty of performing any
12 operation other than those permitted under article 14 of chapter 65 of the
13 Kansas Statutes Annotated, ~~or acts amendatory thereof and amendments~~
14 ~~thereto~~. No license of any dentist or dental hygienist shall be suspended or
15 revoked in any administrative proceedings without first complying with
16 the notice and hearing requirements of the Kansas administrative
17 procedure act.

18 (b) The practice of dental hygiene shall include those educational,
19 preventive, and therapeutic procedures which result in the removal of
20 extraneous deposits, stains and debris from the teeth and the rendering of
21 smooth surfaces of the teeth to the depths of the gingival sulci. Included
22 among those educational, preventive and therapeutic procedures are the
23 instruction of the patient as to daily personal care, protecting the teeth
24 from dental caries, the scaling and polishing of the crown surfaces and the
25 planing of the root surfaces, in addition to the curettage of those soft
26 tissues lining the free gingiva to the depth of the gingival sulcus and such
27 additional educational, preventive and therapeutic procedures as the board
28 may establish by rules and regulations.

29 (c) Subject to such prohibitions, limitations and conditions as the
30 board may prescribe by rules and regulations, any licensed dental hygienist
31 may practice dental hygiene and may also perform such dental service as
32 may be performed by a dental assistant under the provisions of K.S.A. 65-
33 1423, and amendments thereto.

34 (d) Except as otherwise provided in this section, the practice of dental
35 hygiene shall be performed under the direct or general supervision of a
36 licensed dentist at the office of such licensed dentist. The board shall

1 designate by rules and regulations the procedures which may be performed
2 by a dental hygienist under direct supervision and the procedures which
3 may be performed under general supervision of a licensed dentist. As used
4 in this section: (1) "Direct supervision" means that the dentist is in the
5 dental office, personally diagnoses the condition to be treated, personally
6 authorizes the procedure and before dismissal of the patient evaluates the
7 performance; and (2) "general supervision" means a Kansas licensed
8 dentist may delegate verbally or by written authorization the performance
9 of a service, task or procedure to a licensed dental hygienist under the
10 supervision and responsibility of the dentist, if the dental hygienist is
11 licensed to perform the function, and the supervising dentist examines the
12 patient at the time the dental hygiene procedure is performed, or during the
13 12 calendar months preceding the performance of the procedure, except
14 that the licensed hygienist shall not be permitted to diagnose a dental
15 disease or ailment, prescribe any treatment or a regimen thereof, prescribe,
16 order or dispense medication or perform any procedure which is
17 irreversible or which involves the intentional cutting of the soft or hard
18 tissue by any means. A dentist is not required to be on the premises at the
19 time a hygienist performs a function delegated under part (2) of this
20 subsection.

21 (e) The practice of dental hygiene may be performed at an adult care
22 home, hospital long-term care unit, state institution, local health
23 department or indigent health care clinic on a resident of a facility, client
24 or patient thereof so long as:

25 (1) A licensed dentist has delegated the performance of the service,
26 task or procedure;

27 (2) the dental hygienist is under the supervision and responsibility of
28 the dentist;

29 (3) either the supervising dentist is personally present or the services,
30 tasks and procedures are limited to the cleaning of teeth, education and
31 preventive care; *and*

32 (4) the supervising dentist examines the patient at the time the dental
33 hygiene procedure is performed or has examined the patient during the 12
34 calendar months preceding performance of the procedure; ~~and~~.

35 (f) The practice of dental hygiene may be performed with consent of
36 the parent or legal guardian, on children participating in residential and
37 nonresidential centers for therapeutic services, on all children in families
38 which are receiving family preservation services, on all children in the
39 custody of the secretary of social and rehabilitation services or the
40 commissioner of juvenile justice authority and in an out-of-home
41 placement residing in foster care homes, on children being served by
42 runaway youth programs and homeless shelters; and on children birth to
43 five and children in public and nonpublic schools kindergarten through

1 grade 12 regardless of the time of year and children participating in youth
2 organizations, so long as such children ~~birth to five, in public or nonpublic~~
3 ~~schools or participating in youth organizations also meet the requirements~~
4 ~~of medicaid, healthwave, or free or reduced lunch programs or Indian~~
5 ~~health services~~ **who are dentally underserved are targeted**; at any state
6 correctional institution, local health department or indigent health care
7 clinic, as defined in K.S.A. 65-1466, and amendments thereto, and at any
8 federally qualified health center, federally qualified health center look-
9 alike or a community health center that receives funding from section 330
10 of the health center consolidation act, on a person, inmate, client or patient
11 thereof and on other persons as may be defined by the board; so long as:

12 (1) The dental hygienist has received an "extended care permit" from
13 the Kansas dental board specifying that the dental hygienist has performed
14 1,200 hours of dental hygiene care within the past three years or has been
15 an instructor at an accredited dental hygiene program for two academic
16 years within the past three years;

17 (2) the dental hygienist shows proof of professional liability
18 insurance;

19 (3) the dental hygienist is sponsored by a dentist licensed in the state
20 of Kansas, including a signed agreement stating that the dentist shall
21 monitor the dental hygienist's activities, except such dentist shall not
22 monitor more than five dental hygienists with an extended care permit;

23 (4) the tasks and procedures are limited to: (A) removal of extraneous
24 deposits, stains and debris from the teeth and the rendering of smooth
25 surfaces of the teeth to the depths of the gingival sulci; (B) the application
26 of topical anesthetic if the dental hygienist has completed the required
27 course of instruction approved by the dental board; (C) the application of
28 fluoride; (D) dental hygiene instruction; (E) assessment of the patient's
29 apparent need for further evaluation by a dentist to diagnose the presence
30 of dental caries and other abnormalities; and (F) other duties as may be
31 delegated verbally or in writing by the sponsoring dentists consistent with
32 this act;

33 (5) the dental hygienist advises the patient and legal guardian that the
34 services are preventive in nature and do not constitute a comprehensive
35 dental diagnosis and care;

36 (6) the dental hygienist provides a copy of the findings and the report
37 of treatment to the sponsoring dentist and any other dental or medical
38 supervisor at a participating organization found in this subsection; and

39 (7) any payment to the dental hygienist for dental hygiene services is
40 received from the sponsoring dentist or the participating organization
41 found in this subsection.

42 (g) The practice of dental hygiene may be performed on persons with
43 developmental disabilities and on persons who are 65 years and older who

1 live in a residential center, an adult care home, subsidized housing,
2 hospital long-term care unit, state institution or are served in a community
3 senior service center, elderly nutrition program or at the home of a
4 homebound person who qualifies for the federal home and community
5 based service (HCBS) waiver on a resident of a facility, client or patient
6 thereof so long as:

7 (1) The dental hygienist has received an "extended care permit II"
8 from the Kansas dental board specifying that the dental hygienist has: (A)
9 performed ~~1,800~~ **1,600** hours of dental hygiene care or has been an
10 instructor at an accredited dental hygiene program for two academic years
11 within the past three years; and (B) completed six hours of training on the
12 care of special needs patients or other training as may be accepted by the
13 board;

14 (2) the dental hygienist shows proof of professional liability
15 insurance;

16 (3) the dental hygienist is sponsored by a dentist licensed in the state
17 of Kansas, including a signed agreement stating that the dentist shall
18 monitor the dental hygienist's activities, except such dentist shall not
19 monitor more than five dental hygienists with an extended care permit II;

20 (4) the tasks and procedures are limited to: (A) removal of extraneous
21 deposits, stains and debris from the teeth and the rendering of smooth
22 surfaces of the teeth to the depths of the gingival sulci; (B) the application
23 of topical anesthetic if the dental hygienist has completed the required
24 course of instruction approved by the dental board; (C) the application of
25 fluoride; (D) dental hygiene instruction; (E) assessment of the patient's
26 apparent need for further evaluation by a dentist to diagnose the presence
27 of dental caries and other abnormalities; and (F) other duties as may be
28 delegated verbally or in writing by the sponsoring dentist consistent with
29 this act;

30 (5) the dental hygienist advises the patient and legal guardian that the
31 services are preventive in nature and do not constitute comprehensive
32 dental diagnosis and care;

33 (6) the dental hygienist provides a copy of the findings and the report
34 of treatment to the sponsoring dentist and any other dental or medical
35 supervisor at a participating organization found in this subsection;

36 (7) any payment to the dental hygienist for dental hygiene services is
37 received from the sponsoring dentist or the participating organization
38 found in this subsection; and

39 (8) the dental hygienist completes a minimum of ~~six~~ **three** hours of
40 education in the area of special needs care within the board's continuing
41 dental education requirements for relicensure.

42 (h) *The expanded practice of dental hygiene may be performed with*
43 *consent of the parent or legal guardian, on children participating in*

1 residential and nonresidential centers for therapeutic services, on all
2 children in families which are receiving family preservation services, on
3 all children in the custody of the secretary of social and rehabilitation
4 services or the commissioner of juvenile justice authority and in an out-of-
5 home placement residing in foster care homes, on children being served by
6 runaway youth programs and homeless shelters; and on children birth to
7 five and children in public and nonpublic schools kindergarten through
8 grade 12 regardless of the time of year and children participating in youth
9 organizations, so long as such children ~~birth to five, in public or nonpublic~~
10 ~~schools or participating in youth organizations also meet the requirements~~
11 ~~of medicaid, healthwave or Indian health services or have not been seen~~
12 ~~by a dentist during the previous 12 months for a dental exam~~ **who are**
13 **dentally underserved are targeted;** at any state correctional institution,
14 local health department or indigent health care clinic, as defined in K.S.A.
15 65-1466, and amendments thereto, and at any federally qualified health
16 center, federally qualified health center look-alike or a community health
17 center that receives funding from section 330 of the health center
18 consolidation act, on a person, inmate, client or patient; on persons with
19 developmental disabilities and on persons who are 65 years and older who
20 live in a residential center, an adult care home, subsidized housing,
21 hospital long-term care unit, state institution or are served in a community
22 senior service center, elderly nutrition program or at the home of a
23 homebound person who qualifies for the federal home and community
24 based service (HCBS) waiver on a resident of a facility, client or patient
25 thereof so long as:

26 (1) The dental hygienist has received an "extended care permit III"
27 from the Kansas dental board specifying that the dental hygienist has: (A)
28 Performed 2,000 hours of dental hygiene care or has been an instructor at
29 an accredited dental hygiene program for three academic years within the
30 past four years; and (B) completed a course of study of 18 seat hours
31 approved by the board which includes, but is not limited to, emergency
32 dental care techniques, the preparation and placement of temporary
33 restorations, the adjustment of dental prostheses and appropriate
34 pharmacology;

35 (2) the dental hygienist shows proof of professional liability
36 insurance;

37 (3) the dental hygienist is sponsored by a dentist licensed in the state
38 of Kansas, including a signed agreement stating that the dentist shall
39 monitor the dental hygienist's activities, except such dentist shall not
40 monitor more than five dental hygienists with an extended care permit III;

41 (4) the tasks and procedures are limited to: (A) Removal of
42 extraneous deposits, stains and debris from the teeth and the rendering of
43 smooth surfaces of the teeth to the depths of the gingival sulci; (B) the

1 application of topical anesthetic if the dental hygienist has completed the
2 required course of instruction approved by the dental board; (C) the
3 application of fluoride; (D) dental hygiene instruction; (E) assessment of
4 the patient's apparent need for further evaluation by a dentist to diagnose
5 the presence of dental caries and other abnormalities; (F) identification
6 and removal of decay using hand instrumentation and placing a
7 temporary filling, including glass ionomer and other palliative materials;
8 (G) adjustment of dentures, placing soft relines in dentures, checking
9 partial dentures for sore spots and placing permanent identification
10 labeling in dentures; (H) smoothing of a sharp tooth with a slow speed
11 dental handpiece; (I) use of local anesthetic, including topical, infiltration
12 and block anesthesia, when appropriate to assist with procedures where
13 medical services are available in a nursing home, health clinic or any
14 other settings; if the dental hygienist has completed a course on local
15 anesthesia and nitrous oxide as required in this act; (J) extraction of
16 deciduous teeth that are partially exfoliated with class 4 mobility; **and (K)**
17 ~~prescription of fluoride, chlorhexidine, antibiotics and antifungal as~~
18 ~~directed by a standing order from a sponsoring dentist; and (L)~~ other
19 duties as may be delegated verbally or in writing by the sponsoring dentist
20 consistent with this act;

21 (5) the dental hygienist advises the patient and legal guardian that
22 the services are **temporary or** preventive in nature and do not constitute
23 comprehensive dental diagnosis and care;

24 (6) the dental hygienist provides a copy of the findings and the report
25 of treatment to the sponsoring dentist and any other dental or medical
26 supervisor at a participating organization found in this subsection;

27 (7) any payment to the dental hygienist for dental hygiene services is
28 received from the sponsoring dentist or the participating organization
29 found in this subsection; and

30 (8) the dental hygienist completes a minimum of three hours of
31 education related to the expanded scope of dental hygiene practice in
32 subsection (h)(4) of this act within the board's continuing dental education
33 requirements for relicensure.

34 ~~(h)~~ (i) In addition to the duties specifically mentioned in subsection
35 (b) of K.S.A. 65-1456, and amendments thereto, any duly licensed dental
36 hygienist may:

37 (1) Give fluoride treatments as a prophylactic measure, as defined by
38 the United States public health service and as recommended for use in
39 dentistry;

40 (2) remove overhanging restoration margins and periodontal surgery
41 materials by hand scaling instruments; and

42 (3) administer local block and infiltration anaesthesia and nitrous
43 oxide. (A) The administration of local anaesthesia shall be performed

1 under the direct supervision of a licensed dentist except that topically
2 applied local anaesthesia, as defined by the board, may be administered
3 under the general supervision of a licensed dentist. (B) Each dental
4 hygienist who administers local anaesthesia regardless of the type shall
5 have completed courses of instruction in local anaesthesia and nitrous
6 oxide which have been approved by the board.

7 ~~(h)~~ *(j)* (1) The courses of instruction required in subsection ~~(h)(3)(B)~~
8 *(i)(3)(B)* shall provide a minimum of 12 hours of instruction at a teaching
9 institution accredited by the American dental association.

10 (2) The courses of instruction shall include courses which provide
11 both didactic and clinical instruction in: (A) Theory of pain control; (B)
12 anatomy; (C) medical history; (D) pharmacology; and (E) emergencies and
13 complications.

14 (3) Certification in cardiac pulmonary resuscitation shall be required
15 in all cases.

16 ~~(j)~~ *(k)* The board is authorized to issue to a qualified dental hygienist
17 an extended care permit I or extended care permit II, *or extended care*
18 *permit III* as provided in subsections ~~(f) and~~, *(g) and (h)* of this section.

19 ~~(k)~~ *(l)* Nothing in this section shall be construed to prevent a dental
20 hygienist from providing dental hygiene instruction or visual oral health
21 care screenings or fluoride applications in a school or community based
22 setting regardless of the age of the patient.

23 **(m) As used in this section, "dentally underserved" means a**
24 **person who lacks resources to pay for medically necessary health care**
25 **services and who meets the eligibility criteria for qualification as a**
26 **medically indigent person established by the secretary of health and**
27 **environment under K.S.A. 75-6120, and amendments thereto.**

28 New Sec. 2. The state board of regents shall endeavor to add
29 additional seats at the university of Missouri-Kansas City school of
30 dentistry or other locations with the requirement that such students provide
31 services in underserved areas of Kansas for a minimum of four years after
32 graduation.

33 New Sec. 3. (a) There is established a special volunteer dental license
34 for dentists who are retired from active practice and wish to donate their
35 expertise for the dental care and treatment of indigent and underserved
36 persons of the state. The special volunteer dental license shall be:

- 37 (1) Issued by the Kansas dental board to eligible dentists;
38 (2) issued without the payment of an application fee, license fee or
39 renewal fee;
40 (3) issued or renewed without any continuing education requirements;
41 (4) issued for a fiscal year or part thereof; and
42 (5) renewable annually upon approval of the board.
43 (b) A dentist shall meet the following requirements to be eligible for a

1 special volunteer dental license:

2 (1) Completion of a special volunteer dental license application,
3 including documentation of the dentist's dental school graduation and
4 practice history;

5 (2) documentation that the dentist has been previously issued a full
6 and unrestricted license to practice dentistry in Kansas or in another state
7 of the United States and that the dentist has never been the subject of any
8 disciplinary action in any jurisdiction;

9 (3) acknowledgment and documentation that the dentist's practice
10 under the special volunteer dental license will be exclusively and totally
11 devoted to providing dental care to underserved and indigent persons in
12 Kansas; and

13 (4) acknowledgment and documentation that the dentist will not
14 receive or have the expectation to receive any payment or compensation,
15 either direct or indirect, for any dental services rendered under the special
16 volunteer dental license.

17 Sec. 4. K.S.A. 2011 Supp. 75-6102 is hereby amended to read as
18 follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and
19 amendments thereto, unless the context clearly requires otherwise:

20 (a) "State" means the state of Kansas and any department or branch of
21 state government, or any agency, authority, institution or other
22 instrumentality thereof.

23 (b) "Municipality" means any county, township, city, school district
24 or other political or taxing subdivision of the state, or any agency,
25 authority, institution or other instrumentality thereof.

26 (c) "Governmental entity" means state or municipality.

27 (d) (1) "Employee" means: (A) Any officer, employee, servant or
28 member of a board, commission, committee, division, department, branch
29 or council of a governmental entity, including elected or appointed
30 officials and persons acting on behalf or in service of a governmental
31 entity in any official capacity, whether with or without compensation and a
32 charitable health care provider;

33 (B) any steward or racing judge appointed pursuant to K.S.A. 74-
34 8818, and amendments thereto, regardless of whether the services of such
35 steward or racing judge are rendered pursuant to contract as an
36 independent contractor;

37 (C) employees of the United States marshal's service engaged in the
38 transportation of inmates on behalf of the secretary of corrections;

39 (D) a person who is an employee of a nonprofit independent
40 contractor, other than a municipality, under contract to provide educational
41 or vocational training to inmates in the custody of the secretary of
42 corrections and who is engaged in providing such service in an institution
43 under the control of the secretary of corrections provided that such

1 employee does not otherwise have coverage for such acts and omissions
2 within the scope of their employment through a liability insurance contract
3 of such independent contractor;

4 (E) a person who is an employee or volunteer of a nonprofit program,
5 other than a municipality, who has contracted with the commissioner of
6 juvenile justice or with another nonprofit program that has contracted with
7 the commissioner of juvenile justice to provide a juvenile justice program
8 for juvenile offenders in a judicial district provided that such employee or
9 volunteer does not otherwise have coverage for such acts and omissions
10 within the scope of their employment or volunteer activities through a
11 liability insurance contract of such nonprofit program;

12 (F) a person who contracts with the Kansas guardianship program to
13 provide services as a court-appointed guardian or conservator;

14 (G) an employee of an indigent health care clinic;

15 (H) former employees for acts and omissions within the scope of their
16 employment during their former employment with the governmental
17 entity;

18 (I) any member of a regional medical emergency response team,
19 created under the provisions of K.S.A. 48-928, and amendments thereto, in
20 connection with authorized training or upon activation for an emergency
21 response; and

22 (J) medical students enrolled at the university of Kansas medical
23 center who are in clinical training, on or after July 1, 2008, at the
24 university of Kansas medical center or at another health care institution.

25 (2) "Employee" does not include: (A) An individual or entity for
26 actions within the scope of K.S.A. 60-3614, and amendments thereto; or

27 (B) any independent contractor under contract with a governmental
28 entity except those contractors specifically listed in paragraph (1) of this
29 subsection.

30 (e) "Charitable health care provider" means a person licensed by the
31 state board of healing arts as an exempt licensee or a federally active
32 licensee, a person issued a limited permit by the state board of healing arts,
33 a physician assistant licensed by the state board of healing arts, a mental
34 health practitioner licensed by the behavioral sciences regulatory board, an
35 ultrasound technologist currently registered in any area of sonography
36 credentialed through the American registry of radiology technologists, the
37 American registry for diagnostic medical sonography or cardiovascular
38 credentialing international and working under the supervision of a person
39 licensed to practice medicine and surgery, or a health care provider as the
40 term "health care provider" is defined under K.S.A. 65-4921, and
41 amendments thereto, who has entered into an agreement with:

42 (1) The secretary of health and environment under K.S.A. 75-6120,
43 and amendments thereto, who, pursuant to such agreement, gratuitously

1 renders professional services to a person who has provided information
2 which would reasonably lead the health care provider to make the good
3 faith assumption that such person meets the definition of medically
4 indigent person as defined by this section or to a person receiving medical
5 assistance from the programs operated by the Kansas health policy
6 authority, and who is considered an employee of the state of Kansas under
7 K.S.A. 75-6120, and amendments thereto;

8 (2) the secretary of health and environment and who, pursuant to such
9 agreement, gratuitously renders professional services in conducting
10 children's immunization programs administered by the secretary;

11 (3) a local health department or indigent health care clinic, which
12 renders professional services to medically indigent persons or persons
13 receiving medical assistance from the programs operated by the Kansas
14 health policy authority gratuitously or for a fee paid by the local health
15 department or indigent health care clinic to such provider and who is
16 considered an employee of the state of Kansas under K.S.A. 75-6120, and
17 amendments thereto. Professional services rendered by a provider under
18 this paragraph (3) shall be considered gratuitous notwithstanding fees
19 based on income eligibility guidelines charged by a local health
20 department or indigent health care clinic and notwithstanding any fee paid
21 by the local health department or indigent health care clinic to a provider
22 in accordance with this paragraph (3); or

23 (4) the secretary of health and environment to provide dentistry
24 services defined by K.S.A. 65-1422 et seq., and amendments thereto, or
25 dental hygienist services defined by K.S.A. 65-1456, and amendments
26 thereto, that are targeted, but are not limited to medically indigent persons,
27 and are provided on a gratuitous basis: (A) At a location sponsored by a
28 not-for-profit organization that is not the dentist or dental hygienist office
29 location; or (B) *at the office location of a dentist or dental hygienist*
30 *provided the care be delivered as part of a program organized by a not-*
31 *for-profit organization and approved by the secretary of health and*
32 *environment; or (C) **as part of** a charitable program organized by the*
33 *dentist that has been approved by the secretary of health and environment*
34 *upon a showing that the dentist seeks to treat medically indigent patients*
35 *on a gratuitous basis-; except that such dentistry services and dental*
36 *hygienist services shall not include "oral and maxillofacial surgery" as*
37 *defined by Kansas administrative regulation 71-2-2, or use sedation or*
38 *general anesthesia that result in "deep sedation" or "general anesthesia" as*
39 *defined by Kansas administrative regulation 71-5-1.*

40 (f) "Medically indigent person" means a person who lacks resources
41 to pay for medically necessary health care services and who meets the
42 eligibility criteria for qualification as a medically indigent person
43 established by the secretary of health and environment under K.S.A. 75-

1 6120, and amendments thereto.

2 (g) "Indigent health care clinic" means an outpatient medical care
3 clinic operated on a not-for-profit basis which has a contractual agreement
4 in effect with the secretary of health and environment to provide health
5 care services to medically indigent persons.

6 (h) "Local health department" shall have the meaning ascribed to
7 such term under K.S.A. 65-241, and amendments thereto.

8 (i) "Fire control, fire rescue or emergency medical services
9 equipment" means any vehicle, firefighting tool, protective clothing,
10 breathing apparatus and any other supplies, tools or equipment used in
11 firefighting or fire rescue or in the provision of emergency medical
12 services.

13 Sec. 5. K.S.A. 2011 Supp. 65-1456 and 75-6102 are hereby repealed.

14 Sec. 6. This act shall take effect and be in force from and after its
15 publication in the statute book.

16