

## **Dental Practices Act Amendments; Creation of Extended Care Permit III Dental Hygienists; Expansion of Capacity for Kansas Residents in Dental School; Retired Dentist Volunteer License; Expansion of Exemption from Liability under the Kansas Tort Claims Act; Extension of Time for Closure of Dental Practice of Deceased or Substantially Disabled Dentists; HB 2631**

**HB 2631** makes several changes and additions to the Dental Practices Act (Act) for the purpose of expanding dental service in the state, including targeting children who are dentally underserved, by creating an additional extended care permit (ECP) level of service of dental hygienists via creation of a new permit level (ECP III); encouraging additional capacity for Kansas residents in dental schools; establishing a volunteer license for retired dentists who choose to donate their services in certain settings; expanding the locations where such special volunteer license dentists and dental hygienists may provide free services and be exempt from liability under the Kansas Tort Claims Act; extending the length of time dentists may be employed to provide services to patients after the death or substantial disability of a dentist until the practice can be sold or closed; and directing the ECP III dental hygienist to notify the patient or the patient's legal guardian when the need for treatment by a dentist is indicated.

### ***Extended Care Permit III for Dental Hygienists***

The bill adds a third level of extended practice of dental hygiene to be offered by dental hygienists who meet the increased qualifications for the ECP III. The Kansas Dental Board is authorized to issue an ECP III permit. An ECP III dental hygienist does not have prescribing authority.

The ECP III qualifications include that the hygienist has performed 2,000 hours of dental hygiene care or has been an instructor at an accredited dental hygiene program for three of the past four academic years, completed at least three hours of continuing dental education related to the expanded scope of practice, and completed a course of study of 18 seat hours approved by the Kansas Dental Board, with some of the content specified in the bill.

### ***Responsibilities of an ECP III***

The ECP III dental hygienist is required to:

- Show proof of professional liability insurance;
- Be sponsored by a dentist licensed in Kansas, as confirmed by a signed agreement stating the dentist will monitor the activities of the ECP III dental hygienist. A dentist is not allowed to monitor more than five ECP III dental hygienists;
- Advise the patient and legal guardian that the services provided are palliative or preventive and are not comprehensive dental diagnosis and care;
- Provide a copy of the findings and report of treatment to the sponsoring dentist and any other medical supervisor at a participating organization where the ECP III dental hygienist may provide services;

- Notify the patient or the patient's parent or legal guardian of the need for the patient to be treated by a dentist, when a need for evaluation by a dentist is apparent; and
- Receive payment only from the sponsoring dentist or the participating organization where the ECP III dental hygienist provides services.

### ***ECP III Scope of Practice***

The tasks and procedures an ECP III is able to perform are limited to those activities that can be performed by a hygienist under the ECP I or ECP II, plus additional tasks that include the following:

- Identification and removal of decay using hand instrumentation and placing a temporary filling;
- Services related to dentures, including adjustment and checking for sore spots;
- Smoothing of a sharp tooth with a slow speed dental handpiece;
- Use of a local anesthetic within certain limitations;
- Extraction of deciduous teeth within certain limitations; and
- Other duties delegated by the sponsoring dentist which are consistent with the Act.

### ***Population Served by an ECP III***

The population to whom ECP III services are limited includes the following children with consent of the parent or legal guardian:

- Those participating in residential and nonresidential centers for therapeutic services;
- All those in families who receive Family Preservation services;
- Those in the custody of the Secretary of Social and Rehabilitation Services or the Commissioner Juvenile Justice and in an out-of-home placement residing in foster care homes;
- Those being served by runaway youth programs and homeless shelters; and
- Those birth to age five, those in public and private schools kindergarten through Grade 12, regardless of the time of year, and those participating in youth organizations, so long as the children who are dentally underserved are targeted. The term "dentally underserved" is defined as a person who lacks resources to

pay for medically necessary health care services and who meets the eligibility criteria for qualification as a medically indigent person established by the Secretary of Health and Environment pursuant to KSA 75-6120.

The population to be served by an ECP III dental hygienist also includes:

- Those persons, inmates, clients, or patients at any state correctional institution, local health department or indigent health care clinic, and at any federally qualified health center or health center look-alike or a community health center that receives funding from the Health Centers Consolidation Act of 1996, Pub. L. No. 104-299, 110 Stat. 3626 (codified as amended in scattered sections of 42 U.S.C.) (commonly referred to as Section 330);
- Those facility residents, clients, or patients who are persons with developmental disabilities and those who are age 65 and older who live in a residential center, an adult care home, subsidized housing, hospital long-term care unit, or state institution or who are served in a community senior service center, by an elderly nutrition program, or at the home of a homebound person who qualifies for the federal home and community based services waiver.

### ***ECP II Educational Requirement Changes***

The bill also revises some requirements for the ECP II, to comport with the addition of the ECP III. The number of hours of dental hygiene care required to be performed by an ECP II is reduced from 1,800 hours to 1,600 hours, and the number of hours of continuing dental education in special needs care required changes from at least six hours to at least three hours.

### ***Possible Additional Dentistry Students***

The bill requires the State Board of Regents to endeavor to add seats for Kansas residents at the University of Missouri-Kansas City School of Dentistry or other locations, with the requirement that these students provide services in underserved areas of Kansas for at least four years after graduation.

### ***Special Volunteer Dental License***

The bill establishes a special volunteer dental license for dentists who are retired from active practice and wish to donate their expertise for the dental care and treatment of indigent and underserved persons in Kansas. The bill sets forth stipulations related to this license, including that no payment of an application fee, license fee, or renewal fee is required and no continuing education is required for issuance or renewal. A license could be issued for part of or the entire fiscal year and renewable annually upon Kansas Dental Board approval.

Licensure requirements include completion of a special volunteer dental license application with documentation of dental school graduation and practice history, documentation that the dentist previously has been issued a full and unrestricted license to practice dentistry in a state of the United States, and that the dentist has never been the subject of any disciplinary action in any jurisdiction, acknowledgment and documentation that the dentist's practice will involve providing dental care only to underserved and indigent persons in the state, and

acknowledgment and documentation that such services will be provided without any payment or compensation.

### ***Liability Exemption Under the Kansas Tort Claims Act***

The bill amends the definition of a "charitable health care provider" under the Kansas Tort Claims Act by expanding the locations where gratuitous services targeting, but not limited to, medically indigent persons may be provided by dentists and dental hygienists as follows:

- At the office of a dentist or dental hygienist and such care is delivered as part of a program organized by a not-for-profit organization and approved by the Secretary of Health and Environment; or
- As part of a charitable program organized by the dentist that has been approved by the Secretary of Health and Environment, upon showing that the dentist seeks to treat medically indigent patients gratuitously.

As a result of the definition change, dentists, including retired dentists, with a special volunteer dental license or a dental hygienist are exempt from liability under the Kansas Tort Claims Act when providing free services in a dental office or as part of a charitable program organized by a dentist.

### ***Extension of Time for Sale of Closure of Dental Practice***

The bill allows the estate or agent for a deceased or substantially disabled dentist 18 months (changed from not more than one year) to employ dentists to provide service to patients until the practice can be sold or closed. The Kansas Dental Board may extend the time in six-month increments for a period of not more than one additional year upon application showing good cause including, but not limited to, evidence of a good faith effort to sell or close the dental practice.