

SENATE BILL No. 349

By Committee on Public Health and Welfare

1-30

1 AN ACT concerning health and healthcare; relating to oral health;
2 establishing a state oral health plan; medical assistance dental benefits;
3 revising the dental practices act; amending K.S.A. 65-1456 and
4 repealing the existing section.
5

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

7 New Section 1. Sections 1 through 3, and amendments thereto, shall
8 be known and may be cited as the Kansas oral health improvement act.

9 New Sec. 2. (a) The secretary of health and environment shall
10 develop, implement and monitor a state oral health plan and, at least once
11 every five calendar years, shall prepare and publish a written report
12 detailing such plan. The plan shall address, at a minimum, the following
13 topics as related to oral health services in the state of Kansas: Oral health
14 workforce, drinking water, teledentistry, oral health literacy, the financing
15 of oral health services and system collaboration between oral health
16 providers, funding sources and consumers.

17 (b) The secretary of health and environment shall convene an
18 advisory committee consisting of public and private stakeholders to assist
19 the secretary in developing, implementing and monitoring the state oral
20 health plan. Members of such advisory committee shall include, but not be
21 limited to, individuals from the following organizations:

- 22 (1) The department of health and environment;
- 23 (2) oral health Kansas;
- 24 (3) the community care network of Kansas;
- 25 (4) the Kansas dental hygienists' association; and
- 26 (5) the Kansas dental association.

27 (c) The secretary of health and environment shall convene meetings
28 of the advisory committee at least once per calendar year, except that, in
29 the calendar year immediately preceding the written report required by
30 subsection (a), the secretary shall convene meetings of the advisory
31 committee at least once per calendar quarter.

32 (d) In the advisory committee's considerations, the secretary of health
33 and environment shall solicit input and participation from stakeholders
34 representing the following interests: Behavioral health, disabilities, aging,
35 early childhood, hospitals, public health, with emphasis on local health
36 departments, education, long-term care, dental education, insurance and

1 health foundations.

2 New Sec. 3. (a) The secretary of health and environment shall
3 establish or adjust provider reimbursement rates for dental services
4 provided to medical assistance enrollees under K.S.A. 39-709, and
5 amendments thereto, at rates equal to 60% of the reimbursement rates paid
6 by the state healthcare benefits program. The secretary shall review such
7 rates for potential adjustment at least once per calendar year.

8 (b) The secretary of health and environment shall provide dental
9 benefits to any medical assistance enrollee under K.S.A. 39-709, and
10 amendments thereto.

11 (c) The secretary of health and environment shall submit to the
12 United States centers for medicare and medicaid services any approval
13 request necessary to implement this section.

14 (d) The secretary of health and environment shall adopt rules and
15 regulations as necessary to implement and administer this section.

16 Sec. 4. K.S.A. 65-1456 is hereby amended to read as follows: 65-

17 1456. (a) The board may suspend or revoke the license of any dentist who
18 shall permit any dental hygienist operating under such dentist's supervision to
19 perform any operation other than ~~that~~ those permitted under ~~the~~
20 ~~provisions of~~ article 14 of chapter 65 of the Kansas Statutes Annotated,
21 and amendments thereto, and may suspend or revoke the license of any
22 hygienist found guilty of performing any operation other than those
23 permitted under article 14 of chapter 65 of the Kansas Statutes Annotated,
24 and amendments thereto. No license of any dentist or dental hygienist shall
25 be suspended or revoked in any administrative proceedings without first
26 complying with the notice and hearing requirements of the Kansas
27 administrative procedure act.

28 (b) The practice of dental hygiene shall include those educational,
29 preventive, and therapeutic procedures ~~which~~ that result in the removal of
30 extraneous deposits, stains and debris from the teeth and the rendering of
31 smooth surfaces of the teeth to the depths of the gingival sulci. Included
32 among those educational, preventive and therapeutic procedures are the
33 instruction of the patient as to daily personal care, protecting the teeth
34 from dental caries, the scaling and polishing of the crown surfaces and the
35 planing of the root surfaces, in addition to the curettage of those soft
36 tissues lining the free gingiva to the depth of the gingival sulcus and such
37 additional educational, preventive and therapeutic procedures as the board
38 may establish by rules and regulations.

39 (c) Subject to such prohibitions, limitations and conditions as the
40 board may prescribe by rules and regulations, any licensed dental hygienist
41 may practice dental hygiene and may also perform such dental service as
42 may be performed by a dental assistant under the provisions of K.S.A. 65-
43 1423, and amendments thereto.

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

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

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

30 (2) the dental hygienist is under the supervision and responsibility of
31 the dentist;

32 (3) either the supervising dentist is personally present or the services,
33 tasks and procedures are limited to the cleaning of teeth, education and
34 preventive care; and

35 (4) the supervising dentist examines the patient at the time the dental
36 hygiene procedure is performed or has examined the patient during the 12
37 calendar months preceding performance of the procedure.

38 (f) The practice of dental hygiene may be performed with consent of
39 the parent or legal guardian; On children participating in residential and
40 nonresidential centers for therapeutic services; on all children in families
41 ~~which that~~ are receiving family preservation services; on all children in
42 the custody of the secretary for children and families or the ~~commissioner~~
43 ~~of juvenile justice authority~~ *secretary of corrections* and in an out-of-home

1 placement residing in foster care homes; on children being served by
2 runaway youth programs and homeless shelters; ~~and on children birth up~~
3 to five *years old* and children in public and nonpublic schools *in*
4 kindergarten *or grades one* through ~~grade~~ 12 regardless of the time of year
5 and children participating in youth organizations, so long as such children
6 who are dentally underserved are targeted; at any state correctional
7 institution, local health department or indigent health care clinic, as
8 defined in K.S.A. 65-1466, and amendments thereto, and at any federally
9 qualified health center, federally qualified health center look-alike or a
10 community health center that receives funding from section 330 of the
11 health center consolidation act, on a person, inmate, client or patient
12 thereof; and on other persons as may be defined by the board; so long as:

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

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

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

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

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

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

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

43 (g) The practice of dental hygiene may be performed on persons with

1 developmental disabilities and on persons who are 65 years and older who
2 live in a residential center, an adult care home, subsidized housing,
3 hospital long-term care unit, state institution or are served in a community
4 senior service center, elderly nutrition program or at the home of a
5 homebound person who qualifies for the federal home and community
6 based service (HCBS) waiver on a resident of a facility, client or patient
7 thereof, so long as:

8 (1) The dental hygienist has received an "extended care permit II"
9 from the Kansas dental board specifying that the dental hygienist has: (A)
10 Performed 1,600 hours of dental hygiene care or has been an instructor at
11 an accredited dental hygiene program for two academic years within the
12 past three years; and (B) completed six hours of training on the care of
13 special needs patients or other training as may be accepted by the 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
21 extraneous deposits, stains and debris from the teeth and the rendering of
22 smooth surfaces of the teeth to the depths of the gingival sulci; (B) the
23 application of topical anesthetic if the dental hygienist has completed the
24 required course of instruction approved by the dental board; (C) the
25 application of fluoride; (D) dental hygiene instruction; (E) assessment of
26 the patient's apparent need for further evaluation by a dentist to diagnose
27 the presence of dental caries and other abnormalities; and (F) other duties
28 as may be delegated verbally or in writing by the sponsoring dentist
29 consistent with 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 three hours of
40 education in the area of special needs care within the board's continuing
41 dental education requirements for ~~relicensure~~ *renewal of licensure*.

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~~ *that* are receiving family preservation services;
3 on all children in the custody of the secretary for children and families or
4 the ~~commissioner of juvenile justice authority~~ *secretary of corrections* and
5 in an out-of-home placement residing in foster care homes; on children
6 being served by runaway youth programs and homeless shelters; ~~and~~ on
7 children ~~birth~~ *up* to five years old and children in public and nonpublic
8 schools *in* kindergarten or grades one through ~~grade~~ 12 regardless of the
9 time of year and children participating in youth organizations, so long as
10 such children who are dentally underserved are targeted; at any state
11 correctional institution, local health department or indigent health care
12 clinic, as defined in K.S.A. 65-1466, and amendments thereto, and at any
13 federally qualified health center, federally qualified health center look-
14 alike or a community health center that receives funding from section 330
15 of the health center consolidation act, on a person, inmate, client or
16 patient; on persons with developmental disabilities and on persons who are
17 65 years and older who live in a residential center, an adult care home,
18 subsidized housing, hospital long-term care unit, state institution or are
19 served in a community senior service center, elderly nutrition program or
20 at the home of a homebound person who qualifies for the federal home and
21 community based service (HCBS) waiver on a resident of a facility, client
22 or patient thereof; so long as:

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

32 (2) the dental hygienist shows proof of professional liability
33 insurance;

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

38 (4) the tasks and procedures are limited to: (A) Removal of
39 extraneous deposits, stains and debris from the teeth and the rendering of
40 smooth surfaces of the teeth to the depths of the gingival sulci; (B) the
41 application of topical anesthetic, if the dental hygienist has completed the
42 required course of instruction approved by the dental board; (C) the
43 application of fluoride; (D) dental hygiene instruction; (E) assessment of

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

16 (5) the dental hygienist advises the patient and *parent or* legal
17 guardian that the services are palliative or preventive in nature and do not
18 constitute comprehensive dental diagnosis and care;

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

22 (7) the dental hygienist notifies the patient or the patient's parent or
23 legal guardian of such patient's need for treatment by a dentist, when the
24 dental hygienist finds an apparent need for evaluation to diagnose the
25 presence of dental caries and other abnormalities;

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

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

33 (i) In addition to the duties specifically mentioned in subsection (b),
34 any duly licensed dental hygienist may:

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

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

40 (3) administer local block and infiltration anaesthesia and nitrous
41 oxide.

42 (A) The administration of local anaesthesia shall be performed under
43 the direct supervision of a licensed dentist except that topically applied

1 local anaesthesia, as defined by the board, may be administered under the
2 general supervision of a licensed dentist.

3 (B) Each dental hygienist who administers local anaesthesia
4 regardless of the type shall have completed courses of instruction in local
5 anaesthesia and nitrous oxide ~~which~~ *that* have been approved by the board.

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

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

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

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

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

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

27 Sec. 5. K.S.A. 65-1456 is hereby repealed.

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