

By Senator Peaden

2-03381A-08

20082760\_\_

1                   A bill to be entitled  
2           An act relating to dentistry; providing a short title;  
3           amending s. 466.003, F.S.; defining the terms "public  
4           health supervision" and "public health setting"; amending  
5           s. 466.004, F.S.; revising the requirements for membership  
6           on the Board of Dentistry within the Department of Health;  
7           authorizing the board to adopt rules; creating s.  
8           466.0067, F.S.; requiring the board to grant a public  
9           health dental license to an applicant who meets certain  
10          requirements; providing requirements for licensure;  
11          authorizing the holder of a public health dental license  
12          to practice dentistry in a public health setting;  
13          authorizing the board to request verification or to revoke  
14          a public health dental license; authorizing a holder of a  
15          public health dental license to convert it to a dental  
16          license under certain conditions; authorizing the board to  
17          adopt rules; amending s. 466.011, F.S.; conforming a  
18          provision to changes made by the act; authorizing the  
19          board to adopt rules governing the licensure of  
20          applicants; amending s. 466.021, F.S.; revising  
21          requirements relating to retention of dental laboratories  
22          by dentists; changing terminology to reflect employment of  
23          dental laboratories and to change references to work  
24          orders for prescriptions; requiring a dental laboratory to  
25          keep the original or electronic copy of prescriptions;  
26          amending s. 466.023, F.S.; authorizing dental hygienists  
27          to perform dental hygiene services under public health  
28          supervision; authorizing the board to adopt rules;  
29          amending s. 466.024, F.S.; providing that certain tasks

2-03381A-08

20082760\_\_

30 are remediable and delegable to dental hygienists in  
31 certain settings; prohibiting a dentist from delegating  
32 irremediable tasks to a dental hygienist; authorizing a  
33 dentist to delegate remediable tasks to a dental hygienist  
34 under certain conditions; providing a list of remediable  
35 and delegable tasks; authorizing the board to adopt rules;  
36 amending s. 466.032, F.S.; requiring specified continuing  
37 education for renewal of registration of a dental  
38 laboratory by a time certain; providing a listing of  
39 agencies or organizations that are authorized to develop  
40 and offer continuing education; requiring a dental  
41 laboratory owner to submit a sworn statement attesting to  
42 compliance with continuing education requirements and  
43 providing specified information; authorizing the  
44 Department of Health to request documentation of  
45 continuing education; authorizing the department to  
46 request such documentation at random without cause;  
47 providing exemptions from continuing education  
48 requirements; providing for voluntary compliance by  
49 certain dental laboratories; providing an effective date.

50  
51 WHEREAS, tooth decay is one of the most prevalent chronic  
52 diseases of childhood, and

53 WHEREAS, oral diseases are associated with a variety of  
54 systemic diseases, including cardiovascular disease, diabetes,  
55 and cancer, and

56 WHEREAS, oral disease in pregnant women is associated with  
57 preterm birth and low birth weight, and

2-03381A-08

20082760\_\_

58 WHEREAS, early dental care helps to prevent oral disease and  
59 its associated pain, risks, and high costs to individuals, and

60 WHEREAS, the placement of dental sealants and fluorides are  
61 a central and critical aspect of preventive oral health care,  
62 especially for children, and

63 WHEREAS, dental care for low-income and other underserved  
64 patients is provided primarily through publicly funded programs,  
65 and

66 WHEREAS, the current public health infrastructure is  
67 inadequate to provide access to preventive and interventional  
68 oral health care services, and

69 WHEREAS, current dental licensure statutes and rules in  
70 Florida create barriers for dentists licensed in other states who  
71 are willing to serve in public health settings from doing so, and

72 WHEREAS, Florida's current scope of practice rules restrict  
73 the ability of dental hygienists to deliver needed care to low-  
74 income and other underserved patients cost-effectively, and

75 WHEREAS, Florida is one of four states and the U.S. Virgin  
76 Islands that does not offer a process by which dentists from  
77 other states may achieve licensure by credentials to practice in  
78 public or private settings, and

79 WHEREAS, Florida is one of nine states to prohibit dental  
80 hygienists from placing dental sealants without the physical  
81 presence of a dentist, and

82 WHEREAS, the membership of the Florida Board of Dentistry  
83 does not require any of its members to have a background in or  
84 experience in a public health setting, NOW, THEREFORE,

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86 Be It Enacted by the Legislature of the State of Florida:

2-03381A-08

20082760\_\_

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Section 1. This act may be cited as the "Access to Oral Health Act."

Section 2. Subsections (14) and (15) are added to section 466.003, Florida Statutes, to read:

466.003 Definitions.--As used in this chapter:

(14) "Public health setting" means a public health program or an institution of the Department of Children and Family Services, the Department of Health, the Department of Juvenile Justice, a nonprofit community health center, a Head Start center, a federally qualified health center or other similar entity, and any other public health dental safety net provider designated by the board.

(15) "Public health supervision" means administrative supervision whereby a dental hygienist in a public health setting, without supervision or the presence of a dentist or the prior authorization of a dentist, provides remedial services as established by law. The board may authorize additional services by rule.

Section 3. Subsection (1) of section 466.004, Florida Statutes, is amended to read:

466.004 Board of Dentistry.--

(1) To carry out the provisions of this chapter, there is created within the department the Board of Dentistry consisting of 11 members who shall be appointed by the Governor and subject to confirmation by the Senate. Seven members of the board must be licensed dentists actively engaged in the clinical practice of dentistry in this state; two members must be licensed dental hygienists actively engaged in the practice of dental hygiene in

2-03381A-08

20082760\_\_

116 | this state; and the remaining two members must be laypersons who  
117 | are not, and have never been, dentists, dental hygienists, or  
118 | members of any closely related profession or occupation. Each  
119 | member of the board who is a licensed dentist must have been  
120 | actively engaged in the practice of dentistry primarily as a  
121 | clinical practitioner for at least 5 years immediately preceding  
122 | the date of her or his appointment to the board and must remain  
123 | primarily in clinical practice during all subsequent periods of  
124 | appointment to the board. Two of the seven members of the board  
125 | who are licensed dentists must have public health experience that  
126 | includes having practiced dentistry in a public health setting  
127 | for 2 of the past 5 years or must hold an advanced degree in  
128 | public health. Each member of the board who is connected in any  
129 | way with any dental college or community college must be in  
130 | compliance with s. 456.007. At least one member of the board must  
131 | be 60 years of age or older. Members shall be appointed for 4-  
132 | year terms, but may serve no more than a total of 10 years. The  
133 | board may adopt rules pursuant to ss. 120.536(1) and 120.54 to  
134 | administer this subsection.

135 | Section 4. Section 466.0067, Florida Statutes, is created  
136 | to read:

137 | 466.0067 Licensure by credentials.--

138 | (1) Notwithstanding the requirements of s. 466.006, the  
139 | board shall grant a public health dental license to practice  
140 | dentistry by credentials in this state to an applicant who meets  
141 | the following requirements:

142 | (a) Files an appropriate application as supplied by the  
143 | board;

2-03381A-08

20082760\_\_

144       (b) Provides proof of graduation from a dental school  
145 accredited by the Commission on Dental Accreditation of the  
146 American Dental Association or its successor agency;

147       (c) Submits evidence of successful completion of the  
148 National Board examinations and a state or regional clinical  
149 licensing examination;

150       (d) Currently holds a valid, active license in good  
151 standing which has not been revoked, suspended, or restricted  
152 from another state, the District of Columbia, or a United States  
153 territory;

154       (e) Submits proof that he or she has been engaged in the  
155 active, clinical practice of dentistry by providing direct  
156 patient care in the United States or one of its territories, the  
157 Armed Forces, a state or federal program, or a clinical residency  
158 program for 2 out of the 3 years preceding the date of  
159 application. The board may consider a waiver to this requirement  
160 in cases of military service, illness, disability, or pregnancy.  
161 The board shall evaluate the number of years an applicant has  
162 been active in postgraduate training, in research and in teaching  
163 positions, in nonclinical internships, or in residency programs  
164 on a case-by-case basis as a substitute for the required years of  
165 prior practice;

166       (f) Submits documentation of having completed continuing  
167 education that is at least equivalent to the state's requirements  
168 for dentists licensed under s. 466.006 for the 2 years before  
169 applying for licensure by credentials;

170       (g) Has paid the appropriate licensure fees as defined by  
171 board rules which apply to dentists licensed under this chapter;  
172 and

2-03381A-08

20082760\_\_

173       (h) Has passed an examination covering the laws and rules  
174 of the practice of dentistry in this state as described in s.  
175 466.006(4)(a).

176       (2) A public health dental license allows qualifying  
177 licensees to perform unsupervised dentistry in this state's  
178 public health settings as defined in s. 466.003(14).

179       (3) The board may periodically request verification of  
180 compliance with these requirements and may revoke the license  
181 upon a finding that the employment requirement or any other  
182 requirement of this section has not been met.

183       (4) If the holder of a public health dental license has  
184 engaged in the active, clinical practice of dentistry in a public  
185 health setting in this state for a minimum of 3,000 hours in the  
186 3 years prior to application, he or she may apply to the board to  
187 convert the public health dental license to an active,  
188 unrestricted dental license, without further examination and  
189 without being subject to the requirements of s. 466.006.

190       (5) The board may adopt rules pursuant to ss. 120.536(1)  
191 and 120.54 to administer this section.

192       Section 5. Section 466.011, Florida Statutes, is amended to  
193 read:

194       466.011 Licensure.--The board shall certify for licensure  
195 by the department any applicant who satisfies the requirements of  
196 s. 466.006, s. 466.0067, or s. 466.007. The board may refuse to  
197 certify an applicant who has violated any of the provisions of s.  
198 466.026 or s. 466.028. The board may adopt rules pursuant to ss.  
199 120.536(1) and 120.54 to administer this section.

200       Section 6. Section 466.021, Florida Statutes, is amended to  
201 read:

2-03381A-08

20082760\_\_

202           466.021 Retention ~~Employment~~ of dental laboratories  
203 ~~unlicensed persons~~ by dentist; penalty.--~~Each~~ Every ~~duly~~ licensed  
204 dentist who uses the services of any dental laboratory ~~unlicensed~~  
205 ~~person~~ for the purpose of constructing, altering, repairing, or  
206 duplicating any denture, implant, veneer, partial denture, bridge  
207 splint, or orthodontic or other prosthetic appliance, or other  
208 suitable form of artificial oral restorative device shall be  
209 required to furnish the dental laboratory ~~such unlicensed person~~  
210 with a written prescription ~~work order~~ in a such form as  
211 prescribed by rule of the board. This prescription ~~form~~ shall be  
212 dated and signed by the ~~such~~ dentist and shall include the  
213 license number of the dentist, the patient's name or number with  
214 sufficient descriptive information to clearly identify the case  
215 ~~for~~ each separate and individual piece of work to be performed by  
216 the dental laboratory, and a specification of materials to be  
217 contained in each work product. A copy of the prescription ~~such~~  
218 ~~work order~~ shall be retained in a file in the prescribing  
219 dentist's office for a period of 4 years following the date the  
220 prescription was issued, and the original prescription ~~work order~~  
221 shall be retained in a file by the dental laboratory for a period  
222 of 4 years ~~by such unlicensed person in her or his place of~~  
223 ~~business.~~ A registered dental laboratory shall disclose in  
224 writing at the time of delivery of the final restoration to the  
225 prescribing dentist the materials and all certificates of  
226 authenticity that constitute each product manufactured and the  
227 point of origin of manufacture of each restoration, including the  
228 address and contact information of the dental laboratory. The  
229 ~~Such~~ file of prescriptions ~~work orders~~ to be kept by the ~~such~~  
230 dentist and the dental laboratory ~~or by such unlicensed person~~



2-03381A-08

20082760\_\_

231 shall be open to inspection at any reasonable time by the  
232 department or its ~~duly~~ constituted agent. Failure of the dentist  
233 to keep records of each prescription ~~such work orders~~ shall  
234 subject the dentist to suspension or revocation of her or his  
235 license to practice dentistry in this state. Failure of a dental  
236 laboratory that has accepted a prescription to have the original  
237 or electronic copy of each prescription and to ensure the  
238 accuracy of each product's material disclosure at the time it is  
239 delivered to the prescribing dentist ~~such unlicensed person to~~  
240 ~~have in her or his possession a work order~~ as required by this  
241 section is ~~shall be~~ admissible evidence of a violation of this  
242 chapter and constitutes ~~shall constitute~~ a misdemeanor of the  
243 second degree, punishable as provided in s. 775.082 or s.  
244 775.083. This section does not preclude a registered dental  
245 laboratory from working for another registered dental laboratory  
246 if, provided that ~~such~~ work is performed pursuant to written  
247 authorization, in a form to be prescribed by rule of the board,  
248 which evidences that the originating laboratory has obtained a  
249 valid prescription ~~work order~~ and which sets forth the work to be  
250 performed and the resulting material certifications to be  
251 provided. A dental laboratory accepting prescriptions from  
252 dentists is liable for damages caused by inaccuracies in the  
253 material disclosure, certificates of authenticity, or point of  
254 origin provided by the dental laboratory to the prescribing  
255 dentist. This section does not preclude a registered laboratory  
256 from providing its services to dentists licensed and practicing  
257 in another state if, provided that ~~such~~ work is requested or  
258 otherwise authorized in written form that ~~which~~ clearly  
259 identifies the name and address of the requesting dentist and

2-03381A-08

20082760\_\_

260 ~~which~~ sets forth the work to be performed and otherwise complies  
261 with all applicable laws and treaties.

262 Section 7. Subsections (1) and (2) of section 466.023,  
263 Florida Statutes, are amended, and subsection (7) is added to  
264 that section, to read:

265 466.023 Dental hygienists; scope and area of practice.--

266 (1) Except as otherwise provided in s. 466.024, only dental  
267 hygienists may be delegated the task of removing calculus  
268 deposits, accretions, and stains from exposed surfaces of the  
269 teeth and from the gingival sulcus and the task of performing  
270 root planing and curettage. In addition, dental hygienists may  
271 expose dental X-ray films, apply topical preventive or  
272 prophylactic agents, and perform all tasks delegable by the  
273 dentist in accordance with s. 466.024. ~~The board by rule shall~~  
274 ~~determine whether such functions shall be performed under the~~  
275 ~~direct, indirect, or general supervision of the dentist.~~

276 (2) Dental hygienists may perform their duties:

277 (a) In the private offices ~~the office of a licensed~~  
278 dentists where the board by rule shall determine whether such  
279 functions shall be performed under the direct, indirect, or  
280 general supervision of the dentist;

281 (b) In public health settings, as defined in s. 466.003,  
282 ~~programs and institutions of the Department of Children and~~  
283 ~~Family Services, Department of Health, and Department of Juvenile~~  
284 ~~Justice~~ under public health supervision as defined in s. 466.003.  
285 Dental hygienists in public health settings under public health  
286 supervision may perform duties delineated in s. 466.023, s.  
287 466.0235, or s. 466.024, or may perform any other duties

2-03381A-08

20082760\_\_

288 prescribed by state law ~~the general supervision of a licensed~~  
289 ~~dentist~~; or

290 (c) Upon a patient of record of a dentist who has issued a  
291 prescription for the services of a dental hygienist, which  
292 prescription shall be valid for 2 years unless a shorter length  
293 of time is designated by the dentist, in:

- 294 1. Licensed public and private health facilities;
- 295 2. Other public institutions of the state and federal  
296 government;
- 297 3. Public and private educational institutions;
- 298 4. The home of a nonambulatory patient; and
- 299 5. Other places in accordance with the rules of the board.

300

301 However, the dentist issuing such prescription shall remain  
302 responsible for the care of such patient. As used in this  
303 subsection, "patient of record" means a patient upon whom a  
304 dentist has taken a complete medical history, completed a  
305 clinical examination, recorded any pathological conditions, and  
306 prepared a treatment plan.

307 (7) The board may adopt rules pursuant to ss. 120.536(1)  
308 and 120.54 to administer this section.

309 Section 8. Section 466.024, Florida Statutes, is amended to  
310 read:

311 466.024 Delegation of duties; expanded functions.--

312 (1) A dentist may not delegate irremediable tasks to a  
313 dental hygienist or dental assistant, except as provided by law.  
314 A dentist may delegate remediable tasks to a dental hygienist or  
315 dental assistant when such tasks pose no risk to the patient. A  
316 dentist may only delegate remediable tasks so defined by law or

2-03381A-08

20082760\_\_

317 rule of the board. The board by rule shall designate which tasks  
318 are remediable and delegable, except that the following are by  
319 law found to be remediable and delegable to dental hygienists in  
320 settings under s. 466.023(2) (a) and (c):

321 (a) Taking impressions for study casts but not for the  
322 purpose of fabricating any intraoral restorations or orthodontic  
323 appliance.

324 (b) Placing periodontal dressings.

325 (c) Removing periodontal or surgical dressings.

326 (d) Removing sutures.

327 (e) Placing or removing rubber dams.

328 (f) Placing or removing matrices.

329 (g) Placing or removing temporary restorations.

330 (h) Applying cavity liners, varnishes, or bases.

331 (i) Polishing amalgam restorations.

332 (j) Polishing clinical crowns of the teeth for the purpose  
333 of removing stains but not changing the existing contour of the  
334 tooth.

335 (k) Obtaining bacteriological cytological specimens not  
336 involving cutting of the tissue.

337

338 Nothing in this subsection shall be construed to limit delegable  
339 tasks to those specified herein.

340 (2) A dentist may not delegate irremediable tasks to a  
341 dental hygienist except as provided by law or rule of the board.

342 A dentist may delegate remediable tasks to a dental hygienist  
343 when such tasks do not pose a risk to the patient. A dentist may  
344 delegate only remediable tasks defined by law or rule of the

2-03381A-08

20082760\_\_

345 board. The following tasks are remediable and delegable in  
346 settings under s. 466.023:

347 (a) All duties listed in subsection (1).

348 (b) Applying topical fluorides, including applying fluoride  
349 varnish.

350 (c) Applying dental sealants.

351 (3)~~(2)~~ Notwithstanding subsection (1) or subsection (2), a  
352 dentist may delegate the tasks of gingival curettage and root  
353 planing to a dental hygienist but not to a dental assistant.

354 (4)~~(3)~~ All other remediable tasks shall be performed under  
355 the direct, indirect, or general supervision of a dentist or by  
356 dental hygienists under public health supervision in a public  
357 health setting, as determined by rule of the board, and after  
358 such formal or on-the-job training by the dental hygienist or  
359 dental assistant as the board by rule may require. The board by  
360 rule may establish a certification process for expanded-duty  
361 dental assistants, establishing such training or experience  
362 criteria or examinations as it deems necessary and specifying  
363 which tasks may be delegable only to such assistants. If the  
364 board does establish such a certification process, the department  
365 shall implement the application process for such certification  
366 and administer any examinations required.

367 (5)~~(4)~~ Notwithstanding subsection (1) or subsection (2), a  
368 dentist may not delegate to anyone other than another licensed  
369 dentist:

370 (a) Any prescription of drugs or medications requiring the  
371 written order or prescription of a licensed dentist or physician.

372 (b) Any diagnosis for treatment or treatment planning.

2-03381A-08

20082760\_\_

373 (6)~~(5)~~ Notwithstanding any other provision of law, a  
374 dentist is primarily responsible for all procedures delegated by  
375 her or him.

376 (7)~~(6)~~ A ~~No~~ dental assistant may not ~~shall~~ perform an  
377 intraoral procedure except after such formal or on-the-job  
378 training as the board by rule shall prescribe.

379 (8) The board may adopt rules pursuant to ss. 120.536(1)  
380 and 120.54 to administer this section.

381 Section 9. Subsection (5) is added to section 466.032,  
382 Florida Statutes, to read:

383 466.032 Registration.--

384 (5) Either the dental laboratory owner or at least one  
385 employee of any dental laboratory renewing registration on or  
386 after July 1, 2010, shall be required to have completed 18 hours  
387 of continuing education biennially. Programs of continuing  
388 education shall be programs of learning that contribute directly  
389 to the education of the dental technician and may include, but  
390 are not limited to, attendance at lectures, study clubs, college  
391 courses, or scientific sessions of conventions; and research.

392 (a) The aim of continuing education for dental technicians  
393 is to improve dental health care delivery to the public as such  
394 is impacted through the design, manufacture, and use of  
395 artificial human oral prosthetics and related restorative  
396 appliances.

397 (b) Continuing education courses shall address one or more  
398 of the following areas of professional development, including,  
399 but not limited to:

2-03381A-08

20082760\_\_

400       1. Laboratory and technological subjects, including, but  
401 not limited to, laboratory techniques and procedures, materials,  
402 and equipment; and

403       2. Subjects pertinent to oral health, infection control,  
404 and safety.

405       (c) Programs meeting the general requirements of continuing  
406 education may be developed and offered to dental technicians by  
407 the Florida Dental Laboratory Association and the Florida Dental  
408 Association. Other organizations, schools, or agencies may also  
409 be approved to develop and offer continuing education in  
410 accordance with specific criteria established by the department.

411       (d) Any dental laboratory renewing a registration on or  
412 after July 1, 2010, shall submit a sworn affidavit, on a form  
413 approved by the department, attesting that either the dental  
414 laboratory owner or one dental technician employed by the  
415 registered dental laboratory has completed the continuing  
416 education required in this subsection in accordance with the  
417 guidelines and provisions of this subsection and listing the  
418 date, location, sponsor, subject matter, and hours of completed  
419 continuing education courses. The dental laboratory shall retain  
420 in its records such receipts, vouchers, or certificates as may be  
421 necessary to document completion of the continuing education  
422 courses listed in accordance with this subsection. With cause,  
423 the department may request that the documentation be provided by  
424 the applicant. The department may also request the documentation  
425 from applicants selected at random without cause.

426       (e)1. This subsection does not apply to a dental laboratory  
427 that is physically located within a dental practice operated by a  
428 dentist licensed under this chapter.

2-03381A-08

20082760\_\_

429        2. A dental laboratory in another state or country which  
430 provides service to a dentist licensed under this chapter is not  
431 required to register with the state and may continue to provide  
432 services to such dentist with a proper prescription. A dental  
433 laboratory in another state or country, however, may voluntarily  
434 comply with this subsection.

435        Section 10. This act shall take effect January 1, 2009.