

By Senator Smith

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1                   A bill to be entitled  
2           An act relating to the practice of dentistry; amending  
3           s. 466.003, F.S.; defining the term "public health  
4           supervision" and redefining the term "health access  
5           settings" to include school-based prevention programs;  
6           amending ss. 466.006 and 466.0067, F.S.; conforming  
7           cross-references; amending s. 466.00775, F.S.;  
8           conforming a cross-reference; requiring the Board of  
9           Dentistry to adopt additional rules; amending s.  
10          466.023, F.S.; authorizing dental hygienists to  
11          perform certain additional dental hygiene services  
12          under public health supervision; authorizing dental  
13          hygienists to perform fluoride treatments without  
14          supervision; authorizing the board to adopt rules;  
15          amending s. 466.024, F.S.; providing that certain  
16          tasks are remediable and delegable to dental  
17          hygienists in certain settings; prohibiting a dentist  
18          from delegating irremediable tasks to a dental  
19          hygienist; authorizing a dentist to delegate  
20          remediable tasks to a dental hygienist under certain  
21          conditions; providing a list of remediable and  
22          delegable tasks; authorizing the board to adopt rules;  
23          providing an effective date.

24  
25          WHEREAS, tooth decay is one of the most prevalent chronic  
26          diseases of childhood, and

27          WHEREAS, oral diseases are associated with a variety of  
28          systemic diseases, including cardiovascular disease, diabetes,  
29          and cancer, and

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30 WHEREAS, oral disease in pregnant women is associated with  
31 preterm birth and low birth weight, and

32 WHEREAS, early dental care helps to prevent oral disease  
33 and its associated pain, risks, and high costs to individuals,  
34 and

35 WHEREAS, the placement of dental sealants and fluorides are  
36 a central and critical aspect of preventive oral health care,  
37 especially for children, and

38 WHEREAS, dental care for low-income and other underserved  
39 patients is provided primarily through publicly funded programs,  
40 and

41 WHEREAS, the current public health infrastructure is  
42 inadequate to provide access to preventive and interventional  
43 oral health care services, and

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

48 WHEREAS, Florida's current statutes and rules restrict the  
49 ability of dental hygienists to deliver needed care to low-  
50 income and other underserved patients cost-effectively, and

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

55 WHEREAS, Florida is one of nine states to prohibit dental  
56 hygienists from placing dental sealants without the physical  
57 presence of a dentist, and

58 WHEREAS, the membership of the Florida Board of Dentistry

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59 does not require any of its members to have a background in or  
60 experience in a public health setting, NOW, THEREFORE,

61

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

63

64 Section 1. Present subsections (11), (12), (13), and (14)  
65 of section 466.003, Florida Statutes, are redesignated as  
66 subsections (12), (13), (14), and (15), respectively, and  
67 amended, and a new subsection (11) is added to that section, to  
68 read:

69 466.003 Definitions.—As used in this chapter:

70 (11) "Public health supervision" means administrative  
71 supervision whereby a dental hygienist in a health access  
72 setting, without supervision or the presence of a dentist,  
73 provides remedial services as established under s. 466.024. The  
74 board may authorize additional services by rule.

75 (12)~~(11)~~ "Irremediable tasks" are those intraoral treatment  
76 tasks that ~~which~~, when performed, are irreversible and create  
77 unalterable changes within the oral cavity or the contiguous  
78 structures or that ~~which~~ cause an increased risk to the patient.  
79 The administration of anesthetics other than topical anesthesia  
80 is considered to be an "irremediable task" for purposes of this  
81 chapter.

82 (13)~~(12)~~ "Remediable tasks" are those intraoral treatment  
83 tasks that ~~which~~ are reversible and do not create unalterable  
84 changes within the oral cavity or the contiguous structures and  
85 that ~~which~~ do not cause an increased risk to the patient.

86 (14)~~(13)~~ "Oral and maxillofacial surgery" means the  
87 specialty of dentistry involving diagnosis, surgery, and

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88 adjunctive treatment of diseases, injuries, and defects  
89 involving the functional and esthetic aspects of the hard and  
90 soft tissues of the oral and maxillofacial regions. This term  
91 does ~~may not be construed to~~ apply with respect to any  
92 individual exempt under s. 466.002(1).

93 (15)~~(14)~~ "Health access settings" means programs and  
94 institutions of the Department of Children and Family Services,  
95 the Department of Health, the Department of Juvenile Justice,  
96 nonprofit community health centers, Head Start centers,  
97 federally qualified health centers (FQHCs), FQHC look-alikes as  
98 defined by federal law, school-based prevention programs, and  
99 clinics operated by accredited colleges of dentistry in this  
100 state if such community service programs and institutions  
101 immediately report to the Board of Dentistry all violations of  
102 s. 466.027, s. 466.028, or other practice act or standard of  
103 care violations related to the actions or inactions of a  
104 dentist, dental hygienist, or dental assistant engaged in the  
105 delivery of dental care in such settings.

106 Section 2. Paragraph (c) of subsection (2) of section  
107 466.006, Florida Statutes, is amended to read:

108 466.006 Examination of dentists.—

109 (2) An applicant shall be entitled to take the examinations  
110 required in this section to practice dentistry in this state if  
111 the applicant:

112 (c)1. Has successfully completed the National Board of  
113 Dental Examiners dental examination within 10 years of the date  
114 of application; or

115 2. Has an active health access dental license in this  
116 state; and

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117 a. The applicant has at least 5,000 hours within 4  
118 consecutive years of clinical practice experience providing  
119 direct patient care in a health access setting as defined in s.  
120 466.003~~(14)~~; the applicant is a retired veteran dentist of any  
121 branch of the United States Armed Services who has practiced  
122 dentistry while on active duty and has at least 3,000 hours  
123 within 3 consecutive years of clinical practice experience  
124 providing direct patient care in a health access setting as  
125 defined in s. 466.003~~(14)~~; or the applicant has provided a  
126 portion of his or her salaried time teaching health profession  
127 students in any public education setting, including, but not  
128 limited to, a community college, college, or university, and has  
129 at least 3,000 hours within 3 consecutive years of clinical  
130 practice experience providing direct patient care in a health  
131 access setting as defined in s. 466.003~~(14)~~;

132 b. The applicant has not been disciplined by the board,  
133 except for citation offenses or minor violations;

134 c. The applicant has not filed a report pursuant to s.  
135 456.049; and

136 d. The applicant has not been convicted of or pled nolo  
137 contendere to, regardless of adjudication, any felony or  
138 misdemeanor related to the practice of a health care profession.

139 Section 3. Section 466.0067, Florida Statutes, is amended  
140 to read:

141 466.0067 Application for health access dental license.—The  
142 Legislature finds that there is an important state interest in  
143 attracting dentists to practice in underserved health access  
144 settings in this state and further, that allowing out-of-state  
145 dentists who meet certain criteria to practice in health access

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146 settings without the supervision of a dentist licensed in this  
147 state is substantially related to achieving this important state  
148 interest. Therefore, notwithstanding the requirements of s.  
149 466.006, the board shall grant a health access dental license to  
150 practice dentistry in this state in health access settings as  
151 defined in s. 466.003~~(14)~~ to an applicant that:

152 (1) Files an appropriate application approved by the board;

153 (2) Pays an application license fee for a health access  
154 dental license, laws-and-rule exam fee, and an initial licensure  
155 fee. The fees specified in this subsection may not differ from  
156 an applicant seeking licensure pursuant to s. 466.006;

157 (3) Has not been convicted of or pled nolo contendere to,  
158 regardless of adjudication, any felony or misdemeanor related to  
159 the practice of a health care profession;

160 (4) Submits proof of graduation from a dental school  
161 accredited by the Commission on Dental Accreditation of the  
162 American Dental Association or its successor agency;

163 (5) Submits documentation that she or he has completed, or  
164 will obtain prior to licensure, continuing education equivalent  
165 to this state's requirement for dentists licensed under s.  
166 466.006 for the last full reporting biennium before applying for  
167 a health access dental license;

168 (6) Submits proof of her or his successful completion of  
169 parts I and II of the dental examination by the National Board  
170 of Dental Examiners and a state or regional clinical dental  
171 licensing examination that the board has determined effectively  
172 measures the applicant's ability to practice safely;

173 (7) Currently holds a valid, active, dental license in good  
174 standing which has not been revoked, suspended, restricted, or

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175 otherwise disciplined from another of these United States, the  
176 District of Columbia, or a United States territory;

177 (8) Has never had a license revoked from another of these  
178 United States, the District of Columbia, or a United States  
179 territory;

180 (9) Has never failed the examination specified in s.  
181 466.006, unless the applicant was reexamined pursuant to s.  
182 466.006 and received a license to practice dentistry in this  
183 state;

184 (10) Has not been reported to the National Practitioner  
185 Data Bank, unless the applicant successfully appealed to have  
186 his or her name removed from the data bank;

187 (11) Submits proof that he or she has been engaged in the  
188 active, clinical practice of dentistry providing direct patient  
189 care for 5 years immediately preceding the date of application,  
190 or in instances when the applicant has graduated from an  
191 accredited dental school within the preceding 5 years, submits  
192 proof of continuous clinical practice providing direct patient  
193 care since graduation; and

194 (12) Has passed an examination covering the laws and rules  
195 of the practice of dentistry in this state as described in s.  
196 466.006(4)(a).

197 Section 4. Section 466.00775, Florida Statutes, is amended  
198 to read:

199 466.00775 Rulemaking.—The board shall adopt rules pursuant  
200 to ss. 120.536(1) and 120.54 to administer ss. 466.003(15)  
201 ~~466.003(14)~~, 466.004(1), 466.0067, 466.00671, 466.00672,  
202 466.00673, 466.011, 466.021, and 466.032.

203 Section 5. Subsections (1), (2), and (3) of section

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204 466.023, Florida Statutes, are amended, and subsection (7) is  
 205 added to that section, to read:

206 466.023 Dental hygienists; scope and area of practice.—

207 (1) Except as otherwise provided in s. 466.024, only dental  
 208 hygienists may be delegated the task of removing calculus  
 209 deposits, accretions, and stains from exposed surfaces of the  
 210 teeth and from the gingival sulcus and the task of performing  
 211 root planing and curettage. In addition, dental hygienists may  
 212 expose dental X-ray films, apply topical preventive or  
 213 prophylactic agents, and perform all tasks delegable by the  
 214 dentist in accordance with s. 466.024. ~~The board by rule shall~~  
 215 ~~determine whether such functions shall be performed under the~~  
 216 ~~direct, indirect, or general supervision of the dentist.~~

217 (2) Dental hygienists may perform their duties:

218 (a) In the private office of a licensed dentist wherein the  
 219 board shall determine by rule whether the functions in  
 220 subsection (1) must be performed under the direct, indirect, or  
 221 general supervision of the dentist;

222 (b) In ~~public~~ health access settings, ~~programs and~~  
 223 ~~institutions of the Department of Children and Family Services,~~  
 224 ~~Department of Health, and Department of Juvenile Justice~~ under  
 225 public health supervision, as defined in s. 466.003. Dental  
 226 hygienists in health access settings under public health  
 227 supervision may perform the duties delineated in this section,  
 228 ss. 466.0235 and 466.024, and any other duties as prescribed by  
 229 this chapter ~~the general supervision of a licensed dentist; or~~

230 (c) Upon a patient of record of a dentist who has issued a  
 231 prescription for the services of a dental hygienist, which  
 232 prescription is ~~shall be~~ valid for 2 years unless a shorter

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233 length of time is designated by the dentist, in:

- 234 1. Licensed public and private health facilities;  
235 2. Other public institutions of the state and federal  
236 government;  
237 3. Public and private educational institutions;  
238 4. The home of a nonambulatory patient; and  
239 5. Other places in accordance with the rules of the board.  
240

241 However, the dentist issuing such prescription remains ~~shall~~  
242 ~~remain~~ responsible for the care of such patient. As used in this  
243 subsection, "patient of record" means a patient upon whom a  
244 dentist has taken a complete medical history, completed a  
245 clinical examination, recorded any pathological conditions, and  
246 prepared a treatment plan.

247 (3) Dental hygienists may, without supervision, provide  
248 educational programs, faculty or staff training programs,  
249 authorized fluoride rinse programs, and fluoride treatments,  
250 including fluoride varnish applications. Dental hygienists may  
251 also, without supervision, instruct patients in oral hygiene  
252 care and provide other services that ~~which~~ do not involve  
253 diagnosis or treatment of dental conditions and ~~which services~~  
254 are approved by rule of the board.

255 (7) The board may adopt rules to administer this section.

256 Section 6. Section 466.024, Florida Statutes, is amended to  
257 read:

258 466.024 Delegation of duties; expanded functions.—

259 (1) A dentist may not delegate irremediable tasks to a  
260 dental hygienist or dental assistant, except as provided by law.  
261 A dentist may delegate remediable tasks to a dental hygienist or

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262 dental assistant when such tasks pose no risk to the patient. A  
263 dentist may ~~only~~ delegate only those remediable tasks that are  
264 ~~se~~ defined by law or rule of the board. The board by rule shall  
265 designate which tasks are remediable and delegable, except that  
266 the following are by law found to be remediable and delegable to  
267 dental hygienists in settings defined in s. 466.023(2)(a) and  
268 (c):

269 (a) Taking impressions for study casts but not for the  
270 purpose of fabricating any intraoral restorations or orthodontic  
271 appliance.

272 (b) Placing periodontal dressings.

273 (c) Removing periodontal or surgical dressings.

274 (d) Removing sutures.

275 (e) Placing or removing rubber dams.

276 (f) Placing or removing matrices.

277 (g) Placing or removing temporary restorations.

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

279 (i) Polishing amalgam restorations.

280 (j) Polishing clinical crowns of the teeth for the purpose  
281 of removing stains but not changing the existing contour of the  
282 tooth.

283 (k) Obtaining bacteriological cytological specimens not  
284 involving cutting of the tissue.

285  
286 ~~Nothing in~~ This subsection does not ~~shall be construed to~~ limit  
287 delegable tasks to those specified herein.

288 (2) A dentist may not delegate irremediable tasks to a  
289 dental hygienist except as provided by law. A dentist may  
290 delegate remediable tasks to a dental hygienist when such tasks

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291 pose no risk to the patient. A dentist may delegate only those  
292 remediable tasks that are defined by law or rule of the board.  
293 The following tasks are remediable and delegable in settings  
294 defined in s. 466.023(2) (a) and (c):

295 (a) All duties listed in s. 466.023(1).

296 (b) Applying topical fluorides, which includes fluoride  
297 varnish.

298 (c) Applying dental sealants.

299  
300 This subsection does not limit delegable tasks to those  
301 specified herein.

302 (3)~~(2)~~ Notwithstanding subsection (1) or subsection (2), a  
303 dentist may delegate the tasks of gingival curettage and root  
304 planing to a dental hygienist but not to a dental assistant.

305 (4)~~(3)~~ All other remediable tasks shall be performed under  
306 the direct, indirect, or general supervision of a dentist, as  
307 determined by rule of the board, or by dental hygienists under  
308 public health supervision in a health access setting, and after  
309 such formal or on-the-job training by the dental hygienist or  
310 dental assistant as the board by rule may require. The board by  
311 rule may establish a certification process for expanded-duty  
312 dental assistants, establishing such training or experience  
313 criteria or examinations as it deems necessary and specifying  
314 which tasks may be delegable only to such assistants. If the  
315 board does establish such a certification process, the  
316 department shall implement the application process for such  
317 certification and administer any examinations required.

318 (5)~~(4)~~ Notwithstanding subsection (1) or subsection (2), a  
319 dentist may not delegate to anyone other than another licensed

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320 dentist:

321 (a) Any prescription of drugs or medications requiring the  
322 written order or prescription of a licensed dentist or  
323 physician.

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

325 (6)~~(5)~~ Notwithstanding any other provision of law, a  
326 dentist is primarily responsible for all procedures delegated by  
327 her or him.

328 (7)~~(6)~~ A ~~No~~ dental assistant may not ~~shall~~ perform an  
329 intraoral procedure except after such formal or on-the-job  
330 training as the board prescribes by rule ~~shall prescribe~~.

331 (8) The board may adopt rules to administer this section.  
332 Section 7. This act shall take effect July 1, 2010.