

By Senator Hays

20-00313D-11

2011446

1 A bill to be entitled
2 An act relating to dentistry and dental hygiene;
3 amending s. 466.003, F.S.; revising the definition of
4 the term "health access setting" and defining the term
5 "school-based prevention program" for purposes of
6 provisions regulating the practice of dentistry;
7 amending s. 466.023, F.S.; revising the scope and area
8 of practice for dental hygienists; amending s.
9 466.0235, F.S.; revising the locations at which dental
10 hygienists may perform dental charting; amending s.
11 466.024, F.S.; authorizing dental hygienists to
12 perform certain duties without supervision or
13 authorization by a dentist; providing exceptions;
14 requiring that dental hygienists in a health access
15 setting provide a certain disclaimer to patients
16 before a procedure is performed; providing that a
17 health access setting may bill for certain services;
18 requiring that dental hygienists provide a referral,
19 encourage the establishment of a dental home, and
20 maintain insurance coverage in specified
21 circumstances; amending ss. 466.006 and 466.0067,
22 F.S.; conforming cross-references; reenacting s.
23 466.00672(2), F.S., relating to the revocation of
24 health access dental licenses, to incorporate the
25 amendment made by the act to s. 466.003, F.S., in a
26 reference thereto; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
29

20-00313D-11

2011446

30 Section 1. Subsection (14) of section 466.003, Florida
31 Statutes, is amended, and subsection (15) is added to that
32 section, to read:

33 466.003 Definitions.—As used in this chapter:

34 (14) "Health access setting settings" means a program or an
35 institution ~~programs and institutions~~ of the Department of
36 Children and Family Services, the Department of Health, the
37 Department of Juvenile Justice, a nonprofit community health
38 center centers, a Head Start center centers, a federally
39 qualified health center or look-alike centers (FQHCs), ~~FQHC~~
40 ~~look-alikes~~ as defined by federal law, a school-based prevention
41 program, a clinic and clinics operated by an accredited college
42 ~~colleges~~ of dentistry, or an accredited dental hygiene program
43 in this state if such community service program or institution
44 ~~programs and institutions~~ immediately reports report to the
45 Board of Dentistry all violations of s. 466.027, s. 466.028, or
46 other practice act or standard of care violations related to the
47 actions or inactions of a dentist, dental hygienist, or dental
48 assistant engaged in the delivery of dental care in such setting
49 settings.

50 (15) "School-based prevention program" means preventive
51 oral health services offered at a school by one of the entities
52 defined in subsection (14) or by a nonprofit organization that
53 is exempt from federal income taxation under s. 501(a) of the
54 Internal Revenue Code, and described in s. 501(c)(3) of the
55 Internal Revenue Code.

56 Section 2. Subsections (2) and (3) of section 466.023,
57 Florida Statutes, are amended to read:

58 466.023 Dental hygienists; scope and area of practice.—

20-00313D-11

2011446

- 59 (2) Dental hygienists may perform their duties:
- 60 (a) In the office of a licensed dentist;
- 61 (b) In public health programs and institutions of the
- 62 Department of Children and Family Services, Department of
- 63 Health, and Department of Juvenile Justice under the general
- 64 supervision of a licensed dentist; ~~or~~
- 65 (c) In a health access setting as defined in s. 466.003; or
- 66 (d)-(e) Upon a patient of record of a dentist who has issued
- 67 a prescription for the services of a dental hygienist, which
- 68 prescription shall be valid for 2 years unless a shorter length
- 69 of time is designated by the dentist, in:
- 70 1. Licensed public and private health facilities;
- 71 2. Other public institutions of the state and federal
- 72 government;
- 73 3. Public and private educational institutions;
- 74 4. The home of a nonambulatory patient; and
- 75 5. Other places in accordance with the rules of the board.
- 76

77 However, the dentist issuing such prescription shall remain

78 responsible for the care of such patient. As used in this

79 subsection, "patient of record" means a patient upon whom a

80 dentist has taken a complete medical history, completed a

81 clinical examination, recorded any pathological conditions, and

82 prepared a treatment plan.

- 83 (3) Dental hygienists may, without supervision, provide
- 84 educational programs, faculty or staff training programs, and
- 85 authorized fluoride rinse programs; apply fluorides; instruct a
- 86 patient in oral hygiene care; supervise the oral hygiene care of
- 87 a patient; ~~7~~ and perform other services that ~~which~~ do not involve

20-00313D-11

2011446

88 diagnosis or treatment of dental conditions and that ~~which~~
89 ~~services~~ are approved by rule of the board.

90 Section 3. Subsection (2) of section 466.0235, Florida
91 Statutes, is amended to read:

92 466.0235 Dental charting.—

93 (2) A dental hygienist may, without supervision and within
94 the lawful scope of his or her duties as authorized by law,
95 perform dental charting of hard and soft tissues in public and
96 private educational institutions of the state and Federal
97 Government, nursing homes, assisted living and long-term care
98 facilities, community health centers, county health departments,
99 mobile dental or health units, health access settings as defined
100 in s. 466.003, and epidemiological surveys for public health. A
101 dental hygienist may also perform dental charting on a volunteer
102 basis at health fairs.

103 Section 4. Section 466.024, Florida Statutes, is amended to
104 read:

105 466.024 Delegation of duties; expanded functions.—

106 (1) A dentist may not delegate irremediable tasks to a
107 dental hygienist or dental assistant, except as provided by law.
108 A dentist may delegate remediable tasks to a dental hygienist or
109 dental assistant when such tasks pose no risk to the patient. A
110 dentist may only delegate remediable tasks so defined by law or
111 rule of the board. The board by rule shall designate which tasks
112 are remediable and delegable, except that the following are by
113 law found to be remediable and delegable:

114 (a) Taking impressions for study casts but not for the
115 purpose of fabricating any intraoral restorations or orthodontic
116 appliance.

20-00313D-11

2011446

- 117 (b) Placing periodontal dressings.
- 118 (c) Removing periodontal or surgical dressings.
- 119 (d) Removing sutures.
- 120 (e) Placing or removing rubber dams.
- 121 (f) Placing or removing matrices.
- 122 (g) Placing or removing temporary restorations.
- 123 (h) Applying cavity liners, varnishes, or bases.
- 124 (i) Polishing amalgam restorations.
- 125 (j) Polishing clinical crowns of the teeth for the purpose
126 of removing stains but not changing the existing contour of the
127 tooth.
- 128 (k) Obtaining bacteriological cytological specimens not
129 involving cutting of the tissue.
- 130
- 131 ~~Nothing in~~ This subsection does not shall be construed to limit
132 delegable tasks to those specified herein.
- 133 (2) A dental hygienist licensed in this state may perform
134 the following remediable tasks in a health access setting as
135 defined in s. 466.003 without the physical presence, prior
136 examination, or authorization of a dentist:
- 137 (a) Perform dental charting as defined in s. 466.0235 and
138 as provided by rule.
- 139 (b) Measure and record a patient's blood pressure rate,
140 pulse rate, respiration rate, and oral temperature.
- 141 (c) Record a patient's case history.
- 142 (d) Apply topical fluorides, including fluoride varnishes,
143 which are approved by the American Dental Association or the
144 Food and Drug Administration.
- 145 (e) Apply dental sealants.

20-00313D-11

2011446

146 (f) Remove calculus deposits, accretions, and stains from
147 exposed surfaces of the teeth and from tooth surfaces within the
148 gingival sulcus.

149 1. A dentist licensed under this chapter or a physician
150 licensed under chapter 458 or chapter 459 must give medical
151 clearance before a dental hygienist removes calculus deposits,
152 accretions, and stains from exposed surfaces of the teeth or
153 from tooth surfaces within the gingival sulcus.

154 2. A dentist shall conduct a dental examination on a
155 patient within 13 months after a dental hygienist removes the
156 patient's calculus deposits, accretions, and stains from exposed
157 surfaces of the teeth or from tooth surfaces within the gingival
158 sulcus. Additional oral hygiene services may not be performed
159 under this paragraph without a clinical examination by a dentist
160 who is licensed under this chapter.

161
162 This subsection does not authorize a dental hygienist to perform
163 root planing or gingival curettage without supervision by a
164 dentist.

165 (3) For all remediable tasks listed in subsection (2), the
166 following disclaimer must be provided to the patient in writing
167 before any procedure is performed:

168 (a) The services being offered are not a substitute for a
169 comprehensive dental exam by a dentist.

170 (b) The diagnosis of caries, soft tissue disease, oral
171 cancer, temporomandibular joint disease (TMJ), and dentofacial
172 malocclusions will be completed only by a dentist in the context
173 of delivering a comprehensive dental exam.

174 (4) This section does not prevent a program operated by one

20-00313D-11

2011446

175 of the health access settings as defined in s. 466.003 or a
176 nonprofit organization that is exempt from federal income
177 taxation under s. 501(a) of the Internal Revenue Code and
178 described in s. 501(c)(3) of the Internal Revenue Code from
179 billing and obtaining reimbursement for the services described
180 in this section which are provided by a dental hygienist or from
181 making or maintaining any records pursuant to s. 456.057
182 necessary to obtain reimbursement.

183 (5) A dental hygienist who performs, without supervision,
184 the remediable tasks listed in subsection (2) shall:

185 (a) Provide a dental referral in strict compliance with
186 federal and state patient referral, anti-kickback, and patient
187 brokering laws.

188 (b) Encourage the establishment of a dental home.

189 (c) Maintain professional malpractice insurance coverage
190 that has minimum limits of \$100,000 per occurrence and \$300,000
191 in the aggregate through the employing health access setting or
192 individual policy.

193 (6)-(2) Notwithstanding subsection (1) or subsection (2), a
194 dentist may delegate the tasks of gingival curettage and root
195 planing to a dental hygienist but not to a dental assistant.

196 (7)-(3) All other remediable tasks shall be performed under
197 the direct, indirect, or general supervision of a dentist, as
198 determined by rule of the board, and after such formal or on-
199 the-job training by the dental hygienist or dental assistant as
200 the board by rule may require. The board by rule may establish a
201 certification process for expanded-duty dental assistants,
202 establishing such training or experience criteria or
203 examinations as it deems necessary and specifying which tasks

20-00313D-11

2011446

204 may be delegable only to such assistants. If the board does
205 establish such a certification process, the department shall
206 implement the application process for such certification and
207 administer any examinations required.

208 (8)~~(4)~~ Notwithstanding subsection (1) or subsection (2), a
209 dentist may not delegate to anyone other than another licensed
210 dentist:

211 (a) Any prescription of drugs or medications requiring the
212 written order or prescription of a licensed dentist or
213 physician.

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

215 (9)~~(5)~~ Notwithstanding any other provision of law, a
216 dentist is primarily responsible for all procedures delegated by
217 her or him.

218 (10)~~(6)~~ A ~~No~~ dental assistant may not shall perform an
219 intraoral procedure except after such formal or on-the-job
220 training as the board by rule shall prescribe.

221 Section 5. Paragraph (c) of subsection (2) of section
222 466.006, Florida Statutes, is amended to read:

223 466.006 Examination of dentists.—

224 (2) An applicant shall be entitled to take the examinations
225 required in this section to practice dentistry in this state if
226 the applicant:

227 (c)1. Has successfully completed the National Board of
228 Dental Examiners dental examination within 10 years after ~~of~~ the
229 date of application; or

230 2. Has an active health access dental license in this
231 state; and

232 a. The applicant has at least 5,000 hours within 4

20-00313D-11

2011446

233 consecutive years of clinical practice experience providing
234 direct patient care in a health access setting as defined in s.
235 466.003 ~~s. 466.003(14)~~; the applicant is a retired veteran
236 dentist of any branch of the United States Armed Services who
237 has practiced dentistry while on active duty and has at least
238 3,000 hours within 3 consecutive years of clinical practice
239 experience providing direct patient care in a health access
240 setting as defined in s. 466.003 ~~s. 466.003(14)~~; or the
241 applicant has provided a portion of his or her salaried time
242 teaching health profession students in any public education
243 setting, including, but not limited to, a community college,
244 college, or university, and has at least 3,000 hours within 3
245 consecutive years of clinical practice experience providing
246 direct patient care in a health access setting as defined in s.
247 466.003 ~~s. 466.003(14)~~;

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

250 c. The applicant has not filed a report pursuant to s.
251 456.049; and

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

255 Section 6. Section 466.0067, Florida Statutes, is amended
256 to read:

257 466.0067 Application for health access dental license.—The
258 Legislature finds that there is an important state interest in
259 attracting dentists to practice in underserved health access
260 settings in this state and further, that allowing out-of-state
261 dentists who meet certain criteria to practice in health access

20-00313D-11

2011446

262 settings without the supervision of a dentist licensed in this
263 state is substantially related to achieving this important state
264 interest. Therefore, notwithstanding the requirements of s.
265 466.006, the board shall grant a health access dental license to
266 practice dentistry in this state in health access settings as
267 defined in s. 466.003 ~~s. 466.003(14)~~ to an applicant that:

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

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

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

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

279 (5) Submits documentation that she or he has completed, or
280 will obtain prior to licensure, continuing education equivalent
281 to this state's requirement for dentists licensed under s.
282 466.006 for the last full reporting biennium before applying for
283 a health access dental license;

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

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

20-00313D-11

2011446

291 otherwise disciplined from another of the United States, the
292 District of Columbia, or a United States territory;

293 (8) Has never had a license revoked from another of the
294 United States, the District of Columbia, or a United States
295 territory;

296 (9) Has never failed the examination specified in s.
297 466.006, unless the applicant was reexamined pursuant to s.
298 466.006 and received a license to practice dentistry in this
299 state;

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

303 (11) Submits proof that he or she has been engaged in the
304 active, clinical practice of dentistry providing direct patient
305 care for 5 years immediately preceding the date of application,
306 or in instances when the applicant has graduated from an
307 accredited dental school within the preceding 5 years, submits
308 proof of continuous clinical practice providing direct patient
309 care since graduation; and

310 (12) Has passed an examination covering the laws and rules
311 of the practice of dentistry in this state as described in s.
312 466.006(4)(a).

313 Section 7. For the purpose of incorporating the amendment
314 made by this act to section 466.003, Florida Statutes, in a
315 reference thereto, subsection (2) of section 466.00672, Florida
316 Statutes, is reenacted to read:

317 466.00672 Revocation of health access dental license.—

318 (2) Failure of an individual licensed pursuant to s.
319 466.0067 to limit the practice of dentistry to health access

20-00313D-11

2011446__

320 settings as defined in s. 466.003 constitutes the unlicensed
321 practice of dentistry.

322 Section 8. This act shall take effect upon becoming a law.