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# A BILL FOR AN ACT

RELATING TO HEALTH.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that since the  
2 implementation of the dental anesthesia law in the 1990s,  
3 Hawaii's licensed dental hygienists have been held to the  
4 highest standards of patient safety and care, including a  
5 requirement that all new applicants for dental hygienist  
6 licensure be certified in local infiltration anesthesia and  
7 block anesthesia. This stringent certification requirement was  
8 enforced until recently, when some dental hygienist applicants  
9 started to become licensed without a block anesthesia  
10 certification. Clarification of the original intent behind  
11 these certification requirements is therefore needed, to specify  
12 that an applicant must be officially certified in the  
13 administration of intra-oral infiltration local anesthesia and  
14 officially certified in the administration of intra-oral block  
15 anesthesia prior to being licensed as a dental hygienist in  
16 Hawaii.

17           The legislature further finds that existing law permits  
18 duly licensed and registered dentists to employ auxiliary



1 personnel, known as dental assistants, to assist a dentist in  
2 the dentist's practice. Like dental hygienists, dental  
3 assistants are a valuable part of a dental team. However,  
4 dental assistants are not currently licensed or certified in  
5 Hawaii and are not required to meet the same stringent standards  
6 of training and care as licensed dental hygienists. The  
7 legislature notes that some concerns have been raised over  
8 proposed expansion by rule of the duties of a dental assistant,  
9 and whether those duties would overlap with duties currently  
10 within the scope of practice for licensed dental hygienists.

11 The legislature additionally finds that it is important for  
12 those in the field of dentistry to be aware of and adhere to  
13 legislatively determined parameters regarding duty and scope of  
14 practice for licensed dental hygienists. It is also important  
15 that unlicensed persons do not infringe upon a particular  
16 licensed profession's scope of practice. The legislature also  
17 finds that training and education for dental assistants are  
18 important. However, it is not appropriate for unlicensed  
19 auxiliary personnel to be expected or required to perform  
20 duties, activities, or functions that, if performed by a dental  
21 hygienist, would require licensure.



1 Accordingly, the purpose of this Act is to clarify the:

2 (1) Requirements for an individual to become a dental  
3 hygienist; and

4 (2) Allowable and prohibited practices and training  
5 requirements for dental assistants.

6 SECTION 2. Section 447-1, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) Any person:

9 (1) Eighteen years of age or over;

10 (2) Who has a diploma or proper certificate of graduation  
11 from a dental hygiene school accredited by the  
12 American Dental Association Commission on Dental  
13 Accreditation that requires at least a two year course  
14 and is recognized by the board of dental examiners;

15 (3) Who has been officially certified in the  
16 administration of intra-oral infiltration local  
17 anesthesia [~~and intra-oral block anesthesia~~] by an  
18 accredited dental hygiene school or by a certification  
19 program previously approved by the board; [~~and~~]

20 (4) Who has been officially certified in the  
21 administration of intra-oral block anesthesia by an



1           accredited dental hygiene school or by a certification  
2           program previously approved by the board; and

3           ~~[(4)]~~ (5) Who has passed the National Board Dental Hygiene  
4           Examination;

5 upon written application made to and filed with the board may be  
6 examined for qualification as a dental hygienist.

7           An application shall be accompanied by the applicant's  
8 certificate of graduation from an accredited dental hygiene  
9 school, documentary proof of the applicant's certification in  
10 the administration of intra-oral infiltration local anesthesia  
11 and intra-oral block anesthesia, and documentary proof of the  
12 applicant's passage of the National Board Dental Hygiene  
13 Examination. At the time of filing the application, the  
14 applicant shall pay to the board an application fee, which  
15 together with all other fees or charges in this chapter, shall  
16 be as provided in rules adopted by the director of commerce and  
17 consumer affairs pursuant to chapter 91, and shall be deposited  
18 to the credit of the compliance resolution fund established  
19 pursuant to section 26-9(o)."

20           SECTION 3. Section 448-3, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§448-3 Practice by unlicensed employee prohibited;  
 2 penalty. (a) Except as provided in section 447-3, no person  
 3 who manages or conducts as manager, proprietor, conductor, or  
 4 otherwise a place where dental operations are performed, shall  
 5 employ any person as operator in dental surgery or as a  
 6 practitioner, or cause to permit any person to so act, who is  
 7 not duly licensed to practice dentistry; provided that nothing  
 8 in this chapter shall prohibit any unlicensed person from  
 9 performing merely mechanical work upon inert matter in a dental  
 10 laboratory.

11           (b) A duly licensed and registered dentist may employ  
 12 auxiliary personnel, other than registered dental hygienists, to  
 13 assist the dentist in executing the dentist's practice of  
 14 dentistry. These employees shall be known as dental assistants  
 15 and shall perform all duties assigned to them under the  
 16 supervision, direction and responsibility of the dentist.  
 17 [~~Duties~~] Additional duties of the dental assistant and  
 18 regulatory directives [~~shall~~] may be delineated under rules  
 19 which the board of dental examiners may from time to time  
 20 adopt [~~-~~]; provided that these rules shall not infringe upon or  
 21 overlap or conflict with existing law, including the duties and



1 scope of practice for licensed dental hygienists under chapter  
2 447.

3 (c) A dental assistant may perform the following  
4 supportive dental procedures under the direct supervision,  
5 direction, evaluation, and responsibility of a licensed dentist:

6 (1) Assisting the licensed dentist who is actually  
7 performing a dental procedure on a patient, including:

8 (A) Preparing procedural trays or armamentaria set-  
9 ups;

10 (B) Retracting a patient's oral tissues to maintain  
11 the field of operation during the dental  
12 procedure;

13 (C) Removing debris, as is normally created and  
14 accumulated during or after operative procedures  
15 by the dentist;

16 (D) Placing and removing the rubber dam;

17 (E) Mixing dental materials; and

18 (F) Transferring dental instruments or any other  
19 concept of four-handed dentistry the dentist  
20 requires to perform the procedure;



- 1       (2) Assisting a licensed dental hygienist in the  
2       performance of the duties of the dental hygienist;  
3       provided that the assistance shall not include  
4       procedures, activities, or duties that dental  
5       assistants are prohibited from performing under this  
6       section; provided further that the assistance shall  
7       not include procedures, activities, or duties that are  
8       within the scope of a licensed dental hygienist  
9       pursuant to chapter 447;
- 10       (3) Collecting medical and dental histories, taking intra-  
11       oral and extra-oral photographs, and recording or  
12       charting clinical findings as dictated by a licensed  
13       dentist or licensed dental hygienist;
- 14       (4) Completing prescription and authorization forms for  
15       drug or restorative, prosthodontic, or orthodontic  
16       appliance for the supervising licensed dentist;  
17       provided that the licensed dentist shall sign the  
18       forms;
- 19       (5) Conducting mouth mirror supragingival inspections and  
20       reporting observations to the supervising licensed  
21       dentist; provided that the inspection and reporting



- 1           observations shall not be interpreted as an oral  
2           cancer screening;
- 3           (6) Exposing, processing, mounting, and labeling  
4           radiographs;
- 5           (7) Making impressions for study casts; opposing models;  
6           occlusal appliances, such as splints and bite guards;  
7           mouth guards; orthodontic retainers; and medicament  
8           trays;
- 9           (8) Making intra-oral measurements for orthodontic  
10           procedures; performing the preliminary selection and  
11           sizing of bands; checking for loose bands and bonded  
12           brackets; placing and removing orthodontic separators,  
13           ligature ties, and inter-arch elastics, including  
14           chain elastics and rubber bands; fitting and removing  
15           head appliances; and removing arch wires;
- 16           (9) Measuring and recording vital signs;
- 17           (10) Monitoring the nitrous oxide/oxygen unit and reporting  
18           to the supervising dentist any adverse observations;  
19           provided that the licensed dentist shall evaluate,  
20           initiate, and administer the sedation;
- 21           (11) Placing matrix retainers;





- 1        (12) Placing non-aerosol topical anesthetics;
- 2        (13) Relating preoperative and postoperative instructions
- 3                and patient education in oral hygiene, as instructed
- 4                by the supervising licensed dentist or licensed dental
- 5                hygienist;
- 6        (14) Removing dressing and sutures;
- 7        (15) Removing excess supragingival cement after a licensed
- 8                dentist has placed a permanent or temporary prosthetic
- 9                restoration, an appliance, or orthodontic bands with
- 10               hand instruments; and
- 11        (16) Performing a try-in with any removable prosthetic or
- 12               orthodontic appliance; provided that the supervising
- 13               licensed dentist shall make the adjustments.
- 14        (d) Dental assistants shall be appropriately trained in
- 15 the following:
- 16        (1) Proper sterilization and disinfection procedures that
- 17               meet the guidelines of:
- 18               (A) The United States Department of Labor
- 19               Occupational Safety and Health Administration
- 20               bloodborne pathogen standard; and



1           (B) The department of labor and industrial relations  
2           occupational health and safety bloodborne  
3           pathogen standard;

4           (C) The federal Centers for Disease Control and  
5           Prevention guidelines; and

6           (D) The American Dental Association clinical practice  
7           guidelines;

8           (2) Ethics;

9           (3) Proper recordkeeping and patient confidentiality; and

10          (4) Cardiopulmonary resuscitation.

11          The training required pursuant to this section may be  
12          provided by programs that are approved or accredited by the  
13          board or by a licensed dentist; provided that a dentist who  
14          chooses to train the dentist's auxiliary personnel shall first  
15          complete a continuing education program on how to provide  
16          training to auxiliary personnel.

17          (e) Dental assistants shall not perform any activity that  
18          is deemed to be irreversible so as to cause change in the  
19          affected hard or soft tissues and is permanent, may require  
20          reconstructive or corrective procedures, or represents the  
21          practice of dentistry and dental hygiene or requires the



1 knowledge, skill, and training of a licensed dentist or licensed  
2 dental hygienist, including the following intra-oral functions:

3 (1) Administering local anesthetic, sedation, or general  
4 anesthesia;

5 (2) Cementing, bonding, or adjusting any part of a  
6 prosthesis or appliance worn in the mouth;

7 (3) Cementing or re-cementing, finishing margins,  
8 performing a try-in, adjusting the occlusion of any  
9 temporary or permanent fixed prosthetic restoration,  
10 or placing cement bases;

11 (4) Cementing bands and brackets or activating any  
12 orthodontic appliance;

13 (5) Establishing occlusal vertical dimension, making bite  
14 registrations, or making face-bow transfers;

15 (6) Examining, diagnosing, or prescribing a treatment  
16 plan;

17 (7) Making final impressions, which would lead to the  
18 fabrication of any appliance or prosthesis that, when  
19 worn by the patient, would come in direct contact with  
20 hard or soft tissues; provided that this paragraph  
21 shall not apply to the making of impressions for study



- 1           casts, opposing models, occlusal appliances, mouth  
2           guards, orthodontic retainers, or medicament trays;  
3       (8) Performing any endodontic procedure to ream, file,  
4           irrigate, medicate, dry, try-in cores, or fill root  
5           canals, or to establish the length of the tooth;  
6       (9) Performing any surgical or cutting procedures on hard  
7           or soft tissues, extracting teeth, or suturing;  
8       (10) Placing, condensing, carving, finishing, or adjusting  
9           the occlusion of final restorations; or placing cavity  
10           liners, medicaments, or pulp cap materials;  
11       (11) Placing subgingivally materials such as prescriptive  
12           medicaments, retraction cords, and other devices that  
13           are used for tissue displacement;  
14       (12) Prescribing medications or authorizing the fabrication  
15           of any restorative, prosthodontic, or orthodontic  
16           appliances;  
17       (13) Testing pulp vitality;  
18       (14) Using ultrasonic instruments and polishing natural or  
19           restored surfaces of teeth;



1       (15) Removing hard and soft deposits and stains from the  
2               portion of the crown and root surfaces to the depth of  
3               the gingival sulcus; and

4       (16) Applying preventive chemical agents to the coronal  
5               surfaces of teeth.

6       ~~[(e)]~~ (f) Any person ~~[violating]~~ licensed pursuant to this  
7 chapter who violates this section shall be fined not less than  
8 \$100 nor more than \$1,000 for the first violation. Any person  
9 ~~[violating]~~ licensed pursuant to this chapter who violates this  
10 section a second time shall be fined not less than \$500 nor more  
11 than \$2,000 and, in addition to the fine, the person's license  
12 shall be revoked."

13       SECTION 4. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun before its effective date.

16       SECTION 5. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18       SECTION 6. This Act shall take effect on July 1, 2050.

19



**Report Title:**

Dental Hygienists; Dental Assistants; Licensing; Allowable and Prohibited Practices; Training Requirements; Board of Dental Examiners

**Description:**

Clarifies the requirements for an individual to become a dental hygienist. Clarifies the allowable and prohibited practices and training requirements for dental assistants. Effective 7/1/2050. (SD1)

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