

ACT 231

S.B. NO. 2075

A Bill for an Act Relating to Dental Hygienists.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that access to dental services is an essential element in improving Hawaii's poor oral health. Hawaii's children have the worst tooth decay rate in the nation. Across all islands, oral health for children can be up to four times worse than the United States average.

The legislature finds that licensed dental hygienists can play a major role in improving Hawaii's oral health. These trained and certified professionals specialize in the education of dental hygiene and prevention of dental caries, and are currently regulated by the department of commerce and consumer affairs. However, because the existing law requires direct supervision of a licensed dental hygienist in a private practice, dental hygienists are precluded from performing essential dental services outside the dental office, without the physical presence of a licensed dentist.

While the existing law does provide for general supervision of licensed dental hygienists in limited circumstances where they are employed by a legally incorporated eleemosynary dental dispensary or infirmary, private school, or welfare center, or in any building owned or occupied by the State or any county, the availability of such licensed dental hygienists is too few to impact the necessary level of dental care in Hawaii. For example, there are only twelve dental hygienists employed by the department of health whose services reach only one-third of Hawaii's public schools every three years. By comparison, there are about six hundred sixty-seven licensed dental hygienists in Hawaii as of July 2000, the majority of whom are employed by dentists in private practice.

The legislature finds that there needs to be greater access to dental care not only for Hawaii's children, but to Hawaii's elderly and rural population who may not have the ability to visit a dental office. Licensed dental hygienists are trained and can help meet these dental needs. By enabling licensed dental hygienists to perform services under the general or direct supervision of a licensed dentist who is providing dental services in a public health setting, the number of dental hygienists available to service Hawaii's public schools, nursing homes, and rural areas will dramatically increase. This will enable dental hygienists to:

- (1) Conduct dental education;

- (2) Perform basic dental surveys;
- (3) Provide topical application of fluoride for persons who desire this application; and
- (4) Apply sealants as prescribed for persons who desire this application throughout Hawaii,

without having the dentist physically present to oversee these basic dental services.

The purpose of this Act is therefore to allow a licensed dental hygienist to operate under the general or direct supervision of any licensed dentist providing dental services in a public health setting. Public health settings include dental services in a legally incorporated eleemosynary dental dispensary or infirmary, private school, welfare center, hospital, nursing home, adult day care center or assisted living facility, mental institution, nonprofit health clinic, or the State or any county. In addition, this Act prohibits direct reimbursements to licensed dental hygienists. However, in the private practice of dentistry, this Act continues to require dental hygienists to be under the direct supervision of a licensed dentist, and continues to prohibit dental hygienists from establishing or operating separate care facilities that exclusively render dental hygiene services.

This Act also specifies the type of duties that may be performed by a licensed dental hygienist in a public health setting and requires that a licensed dentist determine that the facilities and equipment are suitable for rendering dental hygiene services.

SECTION 2. Section 447-3, Hawaii Revised Statutes, is amended to read as follows:

“§447-3 Employment of and practice by dental hygienists. (a) Any licensed dentist, legally incorporated eleemosynary dental dispensary or infirmary, private school, [or] welfare center, hospital, nursing home, adult day care center or assisted living facility, mental institution, nonprofit health clinic, or the State or any county, may employ licensed dental hygienists.

(b) Clinical dental hygiene may be practiced by a licensed dental hygienist. The practice of clinical dental hygiene is defined as the removal of hard and soft deposits and stains from the portion of the crown and root surfaces to the depth of the gingival sulcus, polishing natural and restored surfaces of teeth, the application of preventive chemical agents to the coronal surfaces of teeth, which chemical agents have been approved by the board of dental examiners, and the use of mouth washes [as-are] approved by the board, but shall not include the performing of any repair work or the preparation thereof, or any other operation on the teeth or tissues of the mouth; provided that nothing [herein] in this subsection shall prohibit a dental hygienist from using or applying topically any chemical agent which has been approved in writing by the department of health for any of the purposes set forth in part V of chapter 321, and other procedures delegated by a dentist in accordance with the rules of the board of dental examiners.

In addition, a licensed dental hygienist may administer intra-oral infiltration local anesthesia and intra-oral block anesthesia under the direct supervision of a dentist after being certified by the board, and for those categories of intra-oral infiltration local anesthesia and intra-oral block anesthesia for which the licensed dental hygienist has been certified through a course of study meeting the requirements of this chapter.

(c) [The] A licensed dental hygienist may operate in the office of any licensed dentist, or legally incorporated eleemosynary dental dispensary or infirmary, private school, [or] welfare center, hospital, nursing home, adult day care center or assisted living facility, mental institution, nonprofit health clinic, or in any building owned or occupied by the State or any county, but only under the aforesaid

employment and under the direct or general supervision of a licensed dentist; provided that in the private practice of dentistry, the hygienist shall be under the direct supervision of a licensed dentist. No dental hygienist may establish or operate any separate care facility which exclusively renders dental hygiene services.

(d) A licensed dental hygienist may operate under the general or direct supervision of any licensed dentist providing dental services in a public health setting. As used in this subsection, "public health setting" includes dental services in a legally incorporated eleemosynary dental dispensary or infirmary, private school, welfare center, hospital, nursing home, adult day care center or assisted living facility, mental institution, nonprofit health clinic, or the State or any county. A licensed dental hygienist employed in a public health setting may perform dental education, dental screenings, and fluoride applications. Other permissible duties shall be pre-screened and authorized by a supervising licensed dentist, subject to the dentist's determination that the equipment and facilities are appropriate and satisfactory to carry out the recommended treatment plan. No direct reimbursements shall be provided to licensed dental hygienists."

SECTION 3. The board of dental examiners shall:

- (1) Evaluate the amendments made to section 447-3, Hawaii Revised Statutes, by this Act as to the safety and efficacy of enabling licensed dental hygienists to operate under the general or direct supervision of licensed dentists in public health settings; and
- (2) Report its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days before the convening of the regular session of 2007.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 28, 2002.)