

## ACT 106

H.B. NO. 561

A Bill for an Act Relating to Dentistry.

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

SECTION 1. The legislature finds that Hawaii has a culture of respecting medical professionals, including dentists, and many consumers are reluctant to challenge the qualifications of health care practitioners who hold themselves out to be licensed and duly qualified. Furthermore, concerns about a health care practitioner may arise once a consumer has begun receiving treatment and the consumer may not know where to seek information regarding the practitioner's licensing status or how to access prior complaint history.

The legislature further finds that the administration of general anesthesia, deep sedation, or moderate (conscious) sedation during routine dental procedures is a matter that requires greater oversight than is currently required. While the administration of such drugs can be done safely as part of a routine dental procedure, it is important that the facilities, equipment, and staffing of a dental practice that administers these drugs are adequately equipped to respond to a patient who may experience medical complications during a procedure. Safety of patients is always of paramount concern, but is especially important when the patients involved are small children, whose age and size render them especially vulnerable to large doses of anesthesia or sedatives.

The legislature additionally finds that if better standards had been in place, the tragic death of three-year old dental patient Finley Boyle could have been prevented. In December of 2013, Finley went to a dentist in Kailua and received the maximum dose of five different sedative drugs. Subsequently, she stopped breathing and suffered a heart attack and brain damage. She died in hospice a few weeks later. The dentist in question lacked any formal training in

administering oral sedatives to a child, but advertised her dental practice as being one "for children".

The legislature notes that the current administrative rules of the board of dental examiners authorize the board to conduct an inspection and evaluation of the facilities, equipment, and personnel of those applying for a written authorization or permit to administer general anesthesia, deep sedation, or moderate (conscious) sedation, but the rules do not make such inspections mandatory.

The purpose of this Act is to:

- (1) Require that every dental office in which general anesthesia, deep sedation, or moderate (conscious) sedation is administered display and keep in a conspicuous place a notice containing contact information for the consumer resource center of the department of commerce and consumer affairs' regulated industries complaints office, so that consumers can verify that the dentist is licensed and holds a current and valid written authorization or permit to administer anesthesia or perform sedation, request prior complaint history on a dentist or dental licensee, or file a complaint against a dentist or dental licensee, and that information on the special privilege accorded to a dentist to administer anesthesia or sedation is reported by the consumer resource center upon request;
- (2) Specify the requirements a licensed dentist must meet to administer general anesthesia, deep sedation, or moderate (conscious) sedation, including the requirements that must be met prior to receiving a written authorization or permit for the administration of anesthesia or sedation; and
- (3) Require the board of dental examiners to perform an on-site inspection of the facility, equipment, and personnel of a licensed dentist prior to the issuance or renewal of a written authorization or permit to administer general anesthesia, deep sedation, or moderate (conscious) sedation, including a requirement that a licensed dentist show proof of the dentist's written authorization or permit and resuscitation plan.

SECTION 2. Chapter 448, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

**“§448-A Notice to consumers.** Every dentist who:

- (1) Is engaged in the practice of dentistry; and
- (2) Administers general anesthesia, deep sedation, or moderate (conscious) sedation,

shall display and keep in a conspicuous place at the dentist's place of business a notice no smaller than eight and one-half inches by eleven inches. The notice shall explain that any person may contact the consumer resource center of the department of commerce and consumer affairs' regulated industries complaints office to verify that the dentist is licensed and holds a current and valid written authorization or permit to administer anesthesia or perform sedation, request prior complaint history on a dentist, or file a complaint against a dentist, and that information on the special privilege accorded to a dentist to administer general anesthesia, deep sedation, or moderate (conscious) sedation is reported by the consumer resource center upon request. The notice shall include all available contact information for the consumer resource center, including a telephone number. The text of all information contained in the notice shall be in a font size no smaller than one-half inch. A dentist who fails to ensure the continuous display of such a notice shall be subject to the penalties provided in this chapter.

**§448-B Administration of general anesthesia and sedation; requirements.**

(a) A licensed dentist shall administer general anesthesia and sedation consistent with the current guidelines and recommendations of the American Dental Association Guidelines for the Use Of Sedation and General Anesthesia by Dentists; provided that for pediatric patients, a licensed dentist shall follow the American Academy of Pediatrics and American Academy of Pediatric Dentistry Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures.

(b) No licensed dentist shall administer or employ another person, such as a physician or nurse anesthetist, who is otherwise qualified in this State to administer general anesthesia, deep sedation, or moderate (conscious) sedation for dental patients, unless the licensed dentist possesses a written authorization or permit from the board.

(c) A licensed dentist intending to produce a given level of sedation shall have the capability to rescue patients whose level of sedation becomes deeper than initially intended.

(d) Prior to receiving a written authorization or permit from the board to administer general anesthesia, deep sedation, or moderate (conscious) sedation, a licensed dentist shall apply to the board, pay an application fee, and submit the following:

(1) Proof of completion of the following educational training requirements:

(A) For general anesthesia and deep sedation:

(i) The applicant has completed an advanced dental education program, accredited by the Commission on Dental Accreditation and approved by the board, that provides comprehensive training necessary to administer deep sedation or general anesthesia and includes documented proficiency in Basic Life Support for Healthcare Providers and Advanced Cardiac Life Support or Pediatric Advanced Life Support as required pursuant to rules adopted by the board; and

(ii) Evidence of the comprehensive training required under clause (i) includes but is not limited to: being a diplomate of the American Board of Oral and Maxillofacial Surgery; a fellow or member of the American Association of Oral and Maxillofacial Surgeons; or completion of an American Dental Association-accredited residency in Oral and Maxillofacial Surgery or Dental Anesthesiology, and practicing in compliance with that training;

(B) For moderate (conscious) sedation:

(i) The applicant has completed a comprehensive training program at the postgraduate level that meets the moderate (conscious) sedation program objectives and content as outlined in the current American Dental Association Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students; and

(ii) The training program required under clause (i) shall be a minimum of sixty hours of instruction, include supervised management of at least twenty moderate (conscious) sedation patients with clinical experience in managing the compromised airway and establishment of intravenous access, and provide current documented proficiency in Basic Life Support for Healthcare Pro-

viders and Advanced Cardiac Life Support or Pediatric Advanced Life Support as required pursuant to rules adopted by the board; and

- (C) A dentist administering general anesthesia or moderate sedation shall be required to complete the Advanced Cardiac Life Support course or, if treating pediatric patients, the Pediatric Advanced Life Support course; provided that both courses shall be completed if the dentist is treating pediatric patients and minors thirteen years or older;
- (2) In lieu of the requirements of paragraph (1)(A) and (B), proof that the licensed dentist employs or works in conjunction with a physician who specializes in anesthesiology and is licensed pursuant to chapter 453, or a certified registered nurse anesthetist, who holds a license in good standing pursuant to chapter 457; provided that the physician who specializes in anesthesiology or certified registered nurse anesthetist shall remain on the premises of the dental facility until the patient is fully recovered and discharged from the facility; and
- (3) Proof of the following facility and staff requirements: The applicant has a properly equipped facility for the administration of general anesthesia, deep sedation, or moderate (conscious) sedation staffed with a supervised team of auxiliary personnel capable of reasonably handling anesthesia procedures, problems, and emergencies incident to the administration of general anesthesia, deep sedation, or moderate (conscious) sedation; provided that the current version of the American Dental Association's Guidelines for the Use of Sedation and General Anesthesia by Dentists and the most current edition of the American Association of Oral and Maxillofacial Surgeons' Office Anesthesia Evaluation Manual are referenced as minimum standards of care; provided further that adequacy of the facility and competence of the anesthesia team may be determined by the consultants appointed by the board pursuant to section 448-C(a), and as provided in rules adopted by the board.
- (e) A licensed dentist who has received a written authorization or permit pursuant to this section to administer or employ a qualified person to administer general anesthesia, deep sedation, or moderate (conscious) sedation shall renew the authorization or permit biennially and pay a biennial fee. As a condition of renewal, the licensed dentist shall show proof of the dentist's written authorization or permit issued pursuant to this section and resuscitation plan.
- (f) The board may, at any time, reevaluate the credentials, facilities, equipment, personnel, and procedures of a licensed dentist who has previously received a written authorization or permit from the board to determine if the dentist is still qualified to have a written authorization or permit. If the board determines that the licensed dentist is no longer qualified to have a written authorization or permit, it may revoke or refuse to renew the authorization or permit, after an opportunity for a hearing is given to the licensed dentist.

**§448-C Inspection of facilities, equipment, and personnel.** (a) Prior to the issuance or renewal of a written authorization or permit pursuant to section 448-B, the board shall, in addition to other requirements established by statute or administrative rule, require an on-site inspection of the facility, equipment, and personnel to determine whether the facility and staff requirements pursuant to section 448-B(d) have been met. The inspection to determine whether the

facility is adequate and properly equipped may be carried out in a manner that generally follows the guidelines, standards, requirements, and basic principles as described in the most current edition of the American Association of Oral and Maxillofacial Surgeons' Office Anesthesia Evaluation Manual. The inspection and evaluation shall be carried out by a team of consultants appointed by the board.

(b) Written authorizations and permits subject to section 448-B shall be issued only to those applicants whose facilities, equipment, and personnel have been deemed adequate pursuant to this section.”

SECTION 3. No later than July 1, 2018, the board of dental examiners shall adopt rules, pursuant to chapter 91, Hawaii Revised Statutes, to effectuate the purposes of this Act.

SECTION 4. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 5. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 2017.  
(Approved July 10, 2017.)

**Note**

1. Edited pursuant to HRS §23G-16.5.