

1 A bill to be entitled
2 An act relating to dentistry; providing a short title;
3 amending s. 466.003, F.S.; providing definitions; amending
4 s. 466.004, F.S.; requiring a specified number of members
5 of the Board of Dentistry to have work experience in a
6 public health setting or an advanced degree in public
7 health; creating s. 466.0067, F.S.; establishing licensure
8 by credentials for a dentist licensed in another state to
9 receive a public health dental license without meeting
10 certain criteria; providing criteria for licensure by
11 credentials; authorizing periodic verifications of
12 credentials by board; providing for revocation of a
13 license; providing for conversion of a public health
14 dental license to an unrestricted license to practice
15 dentistry in the state; providing criteria for an
16 unrestricted license; amending s. 466.011, F.S.; providing
17 that the board shall certify for dental licensure an
18 applicant who satisfies requirements for licensure by
19 credentials; amending s. 466.021, F.S.; revising
20 requirements relating to retention of dental laboratories
21 by dentists; changing terminology to reflect employment of
22 dental laboratories and to change references to work
23 orders to prescriptions; requiring a dental laboratory to
24 keep the original or electronic copy of prescriptions;
25 amending s. 466.023, F.S.; removing requirement for board
26 rule to determine level of supervision for specified scope
27 and area of practice for a dental hygienist in certain
28 areas; providing that the level of supervision for duties

29 | in a dentist's private office shall be determined by rule;
30 | providing that a dental hygienist in public health
31 | settings under public health supervision may perform
32 | duties as specified by law; amending s. 466.024, F.S.;
33 | providing that certain procedures performed by a dental
34 | hygienist under public health supervision are remediable
35 | and delegable; amending s. 466.032, F.S.; requiring
36 | specified continuing education for renewal of registration
37 | of a dental laboratory by a time certain; providing a
38 | listing of agencies or organizations authorized to develop
39 | and offer continuing education; requiring a dental
40 | laboratory owner to submit a sworn statement attesting to
41 | compliance with continuing education requirements and
42 | providing specified information; providing that the
43 | Department of Health may request documentation of
44 | continuing education with cause; providing that the
45 | department may request such documentation at random
46 | without cause; providing exemptions from continuing
47 | education requirements; providing for voluntary compliance
48 | by certain dental laboratories; providing for rulemaking;
49 | providing effective dates.

50 |
51 | WHEREAS, tooth decay is one of the most prevalent chronic
52 | diseases of childhood, and

53 | WHEREAS, oral diseases are associated with a variety of
54 | systemic diseases, including cardiovascular disease, diabetes,
55 | and cancer, and

HB 1367

2008

56 WHEREAS, oral disease in pregnant women is associated with
57 preterm birth and low birth weight, and

58 WHEREAS, early dental care helps to prevent oral disease
59 and its associated pain, risks, and high costs to individuals,
60 and

61 WHEREAS, the application of dental sealants and fluorides
62 are a central and critical aspect of preventive oral healthcare,
63 especially for children, and

64 WHEREAS, dental care for low-income and other underserved
65 patients is provided primarily through publicly funded programs,
66 and

67 WHEREAS, the current public health infrastructure is
68 inadequate to provide access to preventive and interventional
69 oral healthcare services, and

70 WHEREAS, current dental licensure laws and rules in Florida
71 create barriers for dentists licensed in other states who are
72 willing to serve in public health settings in this state from
73 doing so, and

74 WHEREAS, Florida's current scope of practice rules restrict
75 the ability of dental hygienists to cost-effectively deliver
76 needed care to low-income and other underserved patients, and

77 WHEREAS, Florida is one of four states and the United
78 States Virgin Islands to not offer a process by which dentists
79 from other states may achieve licensure by credentials to
80 practice in public or private settings, and

81 WHEREAS, Florida is one of nine states to not permit dental
82 hygienists to apply dental sealants without the physical
83 presence of a dentist, and

84 WHEREAS, the membership of the Board of Dentistry has no
 85 requirement that any of its members have a background or
 86 experience in a public health setting, NOW, THEREFORE,

87

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

89

90 Section 1. Short title.--This act may be cited as the
 91 "Access to Oral Healthcare Act."

92 Section 2. Subsections (11) through (13) of section
 93 466.003, Florida Statutes, are renumbered as subsections (12)
 94 through (14), respectively, and new subsections (11) and (15)
 95 are added to that section to read:

96 466.003 Definitions.--As used in this chapter:

97 (11) "Public health supervision" means administrative
 98 supervision whereby a dental hygienist in a public health
 99 setting shall, without supervision or the presence of a dentist
 100 or the prior authorization of a dentist, provide remedial
 101 services as established by statute. The board may add additional
 102 services by rule.

103 (15) "Public health settings" means public health programs
 104 and institutions of the Department of Children and Family
 105 Services, Department of Health, Department of Juvenile Justice,
 106 nonprofit community health centers, Head Start Centers,
 107 federally qualified health centers, federally qualified health
 108 center look-alikes, and other public health dental safety net
 109 providers as designated by the board.

110 Section 3. Subsection (1) of section 466.004, Florida
 111 Statutes, is amended to read:

HB 1367

2008

112 466.004 Board of Dentistry.--

113 (1) To carry out the provisions of this chapter, there is
114 created within the department the Board of Dentistry consisting
115 of 11 members who shall be appointed by the Governor and subject
116 to confirmation by the Senate. Seven members of the board must
117 be licensed dentists actively engaged in the clinical practice
118 of dentistry in this state, two of whom must have public health
119 experience that shall include having practiced dentistry in a
120 public health setting for 2 of the past 5 years or holding an
121 advanced degree in public health; two members must be licensed
122 dental hygienists actively engaged in the practice of dental
123 hygiene in this state; and the remaining two members must be
124 laypersons who are not, and have never been, dentists, dental
125 hygienists, or members of any closely related profession or
126 occupation. Each member of the board who is a licensed dentist
127 must have been actively engaged in the practice of dentistry
128 primarily as a clinical practitioner for at least 5 years
129 immediately preceding the date of her or his appointment to the
130 board and must remain primarily in clinical practice during all
131 subsequent periods of appointment to the board. Each member of
132 the board who is connected in any way with any dental college or
133 community college must be in compliance with s. 456.007. At
134 least one member of the board must be 60 years of age or older.
135 Members shall be appointed for 4-year terms, but may serve no
136 more than a total of 10 years.

137 Section 4. Section 466.0067, Florida Statutes, is created
138 to read:

139 466.0067 Licensure by credentials.--

140 (1) Notwithstanding the requirements of s. 466.006, the
141 board shall grant a public health dental license to practice
142 dentistry by credentials in this state to an applicant who:

143 (a) Has filed an appropriate application as supplied by
144 the board.

145 (b) Has provided proof of graduation from a dental school
146 accredited by the Commission on Dental Accreditation of the
147 American Dental Association or its successor agency, if any.

148 (c) Has provided evidence of successful completion of the
149 National Board of Dental Examiners dental examination and a
150 state or regional clinical licensing examination.

151 (d) Has provided proof that she or he currently holds a
152 valid, active license to practice dentistry from another state,
153 the District of Columbia, or a United States territory and that
154 such license is in good standing and has not been revoked,
155 suspended, or restricted.

156 (e) Has provided proof that she or he has been engaged in
157 the active, clinical practice of dentistry providing direct
158 patient care in the United States or one of its territories, the
159 armed forces, or a state or federal program or clinical
160 residency program for 2 out of the 3 years preceding the date of
161 application. The board may consider waivers to this requirement
162 in cases of military service, illness, disability, or pregnancy.
163 The board shall evaluate years spent in postgraduate training,
164 research and teaching positions, and other nonclinical intern or
165 residency programs on a case-by-case basis as a substitute for
166 the required years of prior practice.

HB 1367

2008

167 (f) Has provided documentation of having completed
168 continuing education equivalent to the requirements for a
169 dentist licensed under s. 466.006 for the 2 years prior to
170 applying for licensure by credentials.

171 (g) Has paid the appropriate licensure fees, as set by the
172 board in rules, that apply to other dentists licensed under this
173 chapter.

174 (h) Has passed a written examination covering the laws and
175 rules regulating the practice of dentistry in this state as
176 described in s. 466.006(4)(a).

177 (2) A public health dental license will allow qualifying
178 licensees to perform unsupervised dentistry in public health
179 settings in the state.

180 (3) The board may periodically request verification of
181 compliance with these requirements and may revoke the dentist's
182 license upon a finding that the employment requirement, or any
183 other requirement for licensure under this section, has not been
184 met.

185 (4)(a) A dentist licensed under this section may apply to
186 the board to convert the public health dental license to an
187 active, unrestricted dental license, without further examination
188 and without being subject to the requirements of s. 466.006, at
189 such time that she or he has engaged in the active, clinical
190 practice of dentistry in a public health setting in the state
191 for a minimum of 3,000 hours in the 3 years prior to application
192 under this section.

193 (b) A dentist licensed under this section who provides 10
194 percent of her or his salaried time teaching health profession

195 students in any state public education setting, including, but
 196 not limited to, a community college, college, or university, may
 197 apply to convert the public health dental license to an active,
 198 unrestricted dental license, without further examination and
 199 without being subject to the requirements of s. 466.006, at such
 200 time that she or he has engaged in the active, clinical practice
 201 of dentistry in a public health setting in this state for a
 202 minimum of 1,500 hours in the 2 years prior to application.

203 (c) A dentist licensed under this section who is a retired
 204 or veteran dentist of any branch of the United States Armed
 205 Services who practiced dentistry while on active duty may apply
 206 to convert the public health dental license to an active,
 207 unrestricted dental license, without further examination and
 208 without being subject to the requirements of s. 466.006, at such
 209 time that she or he has engaged in the active, clinical practice
 210 of dentistry in a public health setting in this state for a
 211 minimum of 1,500 hours in the 2 years prior to application.

212 Section 5. Section 466.011, Florida Statutes, is amended
 213 to read:

214 466.011 Licensure.--The board shall certify for licensure
 215 by the department any applicant who satisfies the requirements
 216 of s. 466.006, s. 466.0067, or s. 466.007. The board may refuse
 217 to certify an applicant who has violated any of the provisions
 218 of s. 466.026 or s. 466.028.

219 Section 6. Effective January 1, 2009, section 466.021,
 220 Florida Statutes, is amended to read:

221 466.021 Retention ~~Employment~~ of dental laboratories
 222 ~~unlicensed persons~~ by dentist; penalty.--Each ~~Every~~ ~~duly~~

223 licensed dentist who uses the services of any dental laboratory
 224 ~~unlicensed person~~ for the purpose of constructing, altering,
 225 repairing, or duplicating any denture, implant, veneer, partial
 226 denture, bridge splint, ~~or~~ orthodontic or other prosthetic
 227 appliance, or other suitable form of artificial oral restorative
 228 device shall be required to furnish the dental laboratory ~~such~~
 229 ~~unlicensed person~~ with a written prescription ~~work order~~ in a
 230 ~~such~~ form ~~as~~ prescribed by rule of the board. This prescription
 231 ~~form~~ shall be dated and signed by the ~~such~~ dentist and shall
 232 include the license number of the dentist, the patient's name or
 233 number with sufficient descriptive information to clearly
 234 identify ~~the case for~~ each separate and individual piece of work
 235 to be performed by the dental laboratory, and a specification of
 236 materials to be contained in each work product. A copy of the
 237 prescription ~~such work order~~ shall be retained in a file in the
 238 prescribing dentist's office for a period of 4 years from the
 239 date the prescription was issued, and the original prescription
 240 ~~work order~~ shall be retained in a file by the dental laboratory
 241 for a period of 4 years ~~by such unlicensed person in her or his~~
 242 ~~place of business.~~ A registered dental laboratory shall disclose
 243 in writing at the time of delivery of the final restoration to
 244 the prescribing dentist both the materials and all certificates
 245 of authenticity that constitute each product manufactured and
 246 the point of origin of manufacture of each restoration,
 247 including the address and contact information of the dental
 248 laboratory. The ~~Such~~ file of prescriptions ~~work orders~~ to be
 249 kept by the ~~such~~ dentist and the dental laboratory ~~or by such~~
 250 ~~unlicensed person~~ shall be open to inspection at any reasonable

251 time by the department or its duly constituted agent. Failure of
 252 the dentist to keep records of each prescription ~~such work~~
 253 ~~orders~~ shall subject the dentist to suspension or revocation of
 254 her or his license to practice dentistry. Failure of a dental
 255 laboratory that has accepted a prescription to have the original
 256 or electronic copy of each prescription and to ensure the
 257 accuracy of each product's material disclosure at the time it is
 258 delivered to the prescribing dentist ~~such unlicensed person to~~
 259 ~~have in her or his possession a work order~~ as required by this
 260 section ~~is~~ shall be admissible evidence of a violation of this
 261 chapter and constitutes ~~shall constitute~~ a misdemeanor of the
 262 second degree, punishable as provided in s. 775.082 or s.
 263 775.083. This section does not preclude a registered dental
 264 laboratory from working for another registered dental laboratory
 265 ~~if, provided~~ that ~~such~~ work is performed pursuant to written
 266 authorization, in a form to be prescribed by rule of the board,
 267 that ~~which~~ evidences that the originating laboratory has
 268 obtained a valid prescription ~~work order~~ and that ~~which~~ sets
 269 forth the work to be performed and the resulting material
 270 certifications to be provided. A dental laboratory accepting
 271 prescriptions from dentists shall be liable for damages caused
 272 by inaccuracies in the material disclosure, certificates of
 273 authenticity, or point of origin provided by the dental
 274 laboratory to the prescribing dentist. This section does not
 275 preclude a registered laboratory from providing its services to
 276 dentists licensed and practicing in another state ~~if, provided~~
 277 that ~~such~~ work is requested or otherwise authorized in written
 278 form that ~~which~~ clearly identifies the name and address of the

279 requesting dentist and ~~which~~ sets forth the work to be performed
 280 and otherwise complies with all applicable laws and treaties.

281 Section 7. Subsections (1) and (2) of section 466.023,
 282 Florida Statutes, are amended to read:

283 466.023 Dental hygienists; scope and area of practice.--

284 (1) Except as otherwise provided in s. 466.024, only
 285 dental hygienists may be delegated the task of removing calculus
 286 deposits, accretions, and stains from exposed surfaces of the
 287 teeth and from the gingival sulcus and the task of performing
 288 root planing and curettage. In addition, dental hygienists may
 289 expose dental X-ray films, apply topical preventive or
 290 prophylactic agents, and perform all tasks delegable by the
 291 dentist in accordance with s. 466.024. ~~The board by rule shall~~
 292 ~~determine whether such functions shall be performed under the~~
 293 ~~direct, indirect, or general supervision of the dentist.~~

294 (2) Dental hygienists may perform their duties:

295 (a) In the private office of a licensed dentist, in which
 296 case the board shall by rule determine whether such functions
 297 shall be performed under the direct, indirect, or general
 298 supervision of the dentist;

299 (b) In public health settings ~~programs and institutions of~~
 300 ~~the Department of Children and Family Services, Department of~~
 301 ~~Health, and Department of Juvenile Justice~~ under public health
 302 ~~the general supervision.~~ Dental hygienists in public health
 303 settings under public health supervision may perform duties
 304 provided in this section, s. 466.0235, or s. 466.024 or any
 305 other duties for dental hygienists as prescribed by law ~~of a~~
 306 ~~licensed dentist; or~~

307 (c) Upon a patient of record of a dentist who has issued a
 308 prescription for the services of a dental hygienist, which
 309 prescription shall be valid for 2 years unless a shorter length
 310 of time is designated by the dentist, in:

- 311 1. Licensed public and private health facilities;
- 312 2. Other public institutions of the state and federal
 313 government;
- 314 3. Public and private educational institutions;
- 315 4. The home of a nonambulatory patient; and
- 316 5. Other places in accordance with the rules of the board.

317
 318 However, the dentist issuing such prescription shall remain
 319 responsible for the care of such patient. As used in this
 320 subsection, "patient of record" means a patient upon whom a
 321 dentist has taken a complete medical history, completed a
 322 clinical examination, recorded any pathological conditions, and
 323 prepared a treatment plan.

324 Section 8. Section 466.024, Florida Statutes, is amended
 325 to read:

326 466.024 Delegation of duties; expanded functions.--

327 (1) A dentist may not delegate irremediable tasks to a
 328 dental hygienist or dental assistant, except as provided by law.
 329 A dentist may delegate remediable tasks to a dental hygienist or
 330 dental assistant when such tasks pose no risk to the patient. A
 331 dentist may only delegate remediable tasks so defined by law or
 332 rule of the board. The board by rule shall designate which tasks
 333 are remediable and delegable, except that the following are by
 334 law found to be remediable and delegable:

335 (a) Taking impressions for study casts but not for the
 336 purpose of fabricating any intraoral restorations or orthodontic
 337 appliance.

338 (b) Placing periodontal dressings.

339 (c) Removing periodontal or surgical dressings.

340 (d) Removing sutures.

341 (e) Placing or removing rubber dams.

342 (f) Placing or removing matrices.

343 (g) Placing or removing temporary restorations.

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

345 (i) Polishing amalgam restorations.

346 (j) Polishing clinical crowns of the teeth for the purpose
 347 of removing stains but not changing the existing contour of the
 348 tooth.

349 (k) Obtaining bacteriological cytological specimens not
 350 involving cutting of the tissue.

351
 352 Nothing in this subsection shall be construed to limit delegable
 353 tasks to those specified herein.

354 (2) The following procedures performed by dental
 355 hygienists are by law found to be remediable and delegable under
 356 public health supervision:

357 (a) Medical and dental history.

358 (b) A dental screening to include preliminary dental
 359 charting to record the patient's missing dentition, existing
 360 restorations, caries, periodontal disease, and oral pathology.

361 (c) Taking of dental radiographs.

362 (d) Diagnostic impressions.

363 (e) Oral hygiene instruction.
 364 (f) Cleaning and polishing of the clinical crowns of
 365 teeth, including the removal of calculus deposits, accretions,
 366 and stains from the exposed surfaces of the dentition and from
 367 tooth surfaces within the gingival sulcus.

368 (g) Fluoride treatments, including the application of
 369 fluoride varnish.

370 (h) Application of dental sealants.

371 (i) Placing subgingival resorbable chlorhexidine,
 372 doxycycline hyclate, or minocycline hydrochloride.

373 (j) Referral to a dentist licensed under this chapter for
 374 a comprehensive dental examination or treatment or both, when
 375 indicated.

376
 377 Nothing in this subsection shall be construed to limit delegable
 378 tasks to those specified herein.

379 ~~(3)~~~~(2)~~ Notwithstanding subsection (1) or subsection (2), a
 380 dentist may delegate the tasks of gingival curettage and root
 381 planing to a dental hygienist but not to a dental assistant.

382 ~~(4)~~~~(3)~~ All other remediable tasks shall be performed under
 383 the direct, indirect, or general supervision of a dentist, as
 384 determined by rule of the board, or by dental hygienists under
 385 public health supervision in public health settings, and after
 386 such formal or on-the-job training by the dental hygienist or
 387 dental assistant as the board by rule may require. The board by
 388 rule may establish a certification process for expanded-duty
 389 dental assistants, establishing such training or experience
 390 criteria or examinations as it deems necessary and specifying

391 which tasks may be delegable only to such assistants. If the
 392 board does establish such a certification process, the
 393 department shall implement the application process for such
 394 certification and administer any examinations required.

395 (5)~~(4)~~ Notwithstanding subsection (1) or subsection (2), a
 396 dentist may not delegate to anyone other than another licensed
 397 dentist:

398 (a) Any prescription of drugs or medications requiring the
 399 written order or prescription of a licensed dentist or
 400 physician.

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

402 (6)~~(5)~~ Notwithstanding any other provision of law, a
 403 dentist is primarily responsible for all procedures delegated by
 404 her or him.

405 (7)~~(6)~~ No dental assistant shall perform an intraoral
 406 procedure except after such formal or on-the-job training as the
 407 board by rule shall prescribe.

408 Section 9. Effective January 1, 2009, subsection (5) is
 409 added to section 466.032, Florida Statutes, to read:

410 466.032 Registration.--

411 (5) Either the dental laboratory owner or at least one
 412 employee of any dental laboratory renewing registration on or
 413 after July 1, 2010, shall be required to have completed 18 hours
 414 of continuing education biennially. Programs of continuing
 415 education shall be programs of learning that contribute directly
 416 to the education of the dental technician and may include, but
 417 shall not be limited to, attendance at lectures, study clubs,

HB 1367

2008

418 college courses, or scientific sessions of conventions; and
419 research.

420 (a) The aim of continuing education for dental technicians
421 is to improve dental health care delivery to the public as such
422 is impacted through the design, manufacture, and use of
423 artificial human oral prosthetics and related restorative
424 appliances.

425 (b) Continuing education courses shall address one or more
426 of the following areas of professional development, including,
427 but not limited to:

428 1. Laboratory and technological subjects, including, but
429 not limited to, laboratory techniques and procedures, materials,
430 and equipment; and

431 2. Subjects pertinent to oral health, infection control,
432 and safety.

433 (c) Programs meeting the general requirements of
434 continuing education may be developed and offered to dental
435 technicians by the Florida Dental Laboratory Association and the
436 Florida Dental Association. Other organizations, schools, or
437 agencies may also be approved to develop and offer continuing
438 education in accordance with specific criteria established by
439 the department.

440 (d) Any dental laboratory renewing a registration on or
441 after July 1, 2010, shall submit a sworn affidavit, on a form
442 acceptable to the department, attesting that either the dental
443 laboratory owner or one dental technician employed by the
444 registered dental laboratory has completed the continuing
445 education required in this subsection in accordance with the

446 guidelines and provisions of this subsection and listing the
447 date, location, sponsor, subject matter, and hours of completed
448 continuing education courses. The dental laboratory shall retain
449 in its records such receipts, vouchers, or certificates as may
450 be necessary to document completion of the continuing education
451 courses listed in accordance with this subsection. With cause,
452 the department may request that the documentation be provided by
453 the applicant. The department may also request the documentation
454 from applicants selected at random without cause.

455 (e)1. This subsection does not apply to a dental
456 laboratory that is physically located within a dental practice
457 operated by a dentist licensed under this chapter.

458 2. A dental laboratory in another state or country that
459 provides service to a dentist licensed under this chapter is not
460 required to register with the state and may continue to provide
461 services to such dentist with a proper prescription. A dental
462 laboratory in another state or country, however, may voluntarily
463 comply with this subsection.

464 Section 10. The board shall adopt rules pursuant to ss.
465 120.536(1) and 120.54, Florida Statutes, to implement this act.

466 Section 11. Except as otherwise expressly provided in this
467 act, this act shall take effect July 1, 2009.