

HOUSE BILL No. 2631

By Committee on Health and Human Services

2-3

1 AN ACT concerning dental care; amending K.S.A. 2011 Supp. 65-1456
2 and 75-6102 and repealing the existing sections.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2011 Supp. 65-1456 is hereby amended to read as
6 follows: 65-1456. (a) The board may suspend or revoke the license of any
7 dentist who shall permit any dental hygienist operating under such dentist's
8 supervision to perform any operation other than that permitted under the
9 provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, ~~or~~
10 ~~acts amendatory thereof and amendments thereto~~, and may suspend or
11 revoke the license of any hygienist found guilty of performing any
12 operation other than those permitted under article 14 of chapter 65 of the
13 Kansas Statutes Annotated, ~~or acts amendatory thereof and amendments~~
14 ~~thereto~~. No license of any dentist or dental hygienist shall be suspended or
15 revoked in any administrative proceedings without first complying with
16 the notice and hearing requirements of the Kansas administrative
17 procedure act.

18 (b) The practice of dental hygiene shall include those educational,
19 preventive, and therapeutic procedures which result in the removal of
20 extraneous deposits, stains and debris from the teeth and the rendering of
21 smooth surfaces of the teeth to the depths of the gingival sulci. Included
22 among those educational, preventive and therapeutic procedures are the
23 instruction of the patient as to daily personal care, protecting the teeth
24 from dental caries, the scaling and polishing of the crown surfaces and the
25 planing of the root surfaces, in addition to the curettage of those soft
26 tissues lining the free gingiva to the depth of the gingival sulcus and such
27 additional educational, preventive and therapeutic procedures as the board
28 may establish by rules and regulations.

29 (c) Subject to such prohibitions, limitations and conditions as the
30 board may prescribe by rules and regulations, any licensed dental hygienist
31 may practice dental hygiene and may also perform such dental service as
32 may be performed by a dental assistant under the provisions of K.S.A. 65-
33 1423, and amendments thereto.

34 (d) Except as otherwise provided in this section, the practice of dental
35 hygiene shall be performed under the direct or general supervision of a
36 licensed dentist at the office of such licensed dentist. The board shall

1 designate by rules and regulations the procedures which may be performed
2 by a dental hygienist under direct supervision and the procedures which
3 may be performed under general supervision of a licensed dentist. As used
4 in this section: (1) "Direct supervision" means that the dentist is in the
5 dental office, personally diagnoses the condition to be treated, personally
6 authorizes the procedure and before dismissal of the patient evaluates the
7 performance; and (2) "general supervision" means a Kansas licensed
8 dentist may delegate verbally or by written authorization the performance
9 of a service, task or procedure to a licensed dental hygienist under the
10 supervision and responsibility of the dentist, if the dental hygienist is
11 licensed to perform the function, and the supervising dentist examines the
12 patient at the time the dental hygiene procedure is performed, or during the
13 12 calendar months preceding the performance of the procedure, except
14 that the licensed hygienist shall not be permitted to diagnose a dental
15 disease or ailment, prescribe any treatment or a regimen thereof, prescribe,
16 order or dispense medication or perform any procedure which is
17 irreversible or which involves the intentional cutting of the soft or hard
18 tissue by any means. A dentist is not required to be on the premises at the
19 time a hygienist performs a function delegated under part (2) of this
20 subsection.

21 (e) The practice of dental hygiene may be performed at an adult care
22 home, hospital long-term care unit, state institution, local health
23 department or indigent health care clinic on a resident of a facility, client
24 or patient thereof so long as:

25 (1) A licensed dentist has delegated the performance of the service,
26 task or procedure;

27 (2) the dental hygienist is under the supervision and responsibility of
28 the dentist;

29 (3) either the supervising dentist is personally present or the services,
30 tasks and procedures are limited to the cleaning of teeth, education and
31 preventive care; *and*

32 (4) the supervising dentist examines the patient at the time the dental
33 hygiene procedure is performed or has examined the patient during the 12
34 calendar months preceding performance of the procedure; ~~and~~.

35 (f) The practice of dental hygiene may be performed with consent of
36 the parent or legal guardian, on children participating in residential and
37 nonresidential centers for therapeutic services, on all children in families
38 which are receiving family preservation services, on all children in the
39 custody of the secretary of social and rehabilitation services or the
40 commissioner of juvenile justice authority and in an out-of-home
41 placement residing in foster care homes, on children being served by
42 runaway youth programs and homeless shelters; and on children birth to
43 five and children in public and nonpublic schools kindergarten through

1 grade 12 regardless of the time of year and children participating in youth
2 organizations, so long as such children birth to five, in public or nonpublic
3 schools or participating in youth organizations also meet the requirements
4 of medicaid, healthwave, or free or reduced lunch programs or Indian
5 health services; at any state correctional institution, local health
6 department or indigent health care clinic, as defined in K.S.A. 65-1466,
7 and amendments thereto, and at any federally qualified health center,
8 federally qualified health center look-alike or a community health center
9 that receives funding from section 330 of the health center consolidation
10 act, on a person, inmate, client or patient thereof and on other persons as
11 may be defined by the board; so long as:

12 (1) The dental hygienist has received an "extended care permit" from
13 the Kansas dental board specifying that the dental hygienist has performed
14 1,200 hours of dental hygiene care within the past three years or has been
15 an instructor at an accredited dental hygiene program for two academic
16 years within the past three years;

17 (2) the dental hygienist shows proof of professional liability
18 insurance;

19 (3) the dental hygienist is sponsored by a dentist licensed in the state
20 of Kansas, including a signed agreement stating that the dentist shall
21 monitor the dental hygienist's activities, except such dentist shall not
22 monitor more than five dental hygienists with an extended care permit;

23 (4) the tasks and procedures are limited to: (A) removal of extraneous
24 deposits, stains and debris from the teeth and the rendering of smooth
25 surfaces of the teeth to the depths of the gingival sulci; (B) the application
26 of topical anesthetic if the dental hygienist has completed the required
27 course of instruction approved by the dental board; (C) the application of
28 fluoride; (D) dental hygiene instruction; (E) assessment of the patient's
29 apparent need for further evaluation by a dentist to diagnose the presence
30 of dental caries and other abnormalities; and (F) other duties as may be
31 delegated verbally or in writing by the sponsoring dentists consistent with
32 this act;

33 (5) the dental hygienist advises the patient and legal guardian that the
34 services are preventive in nature and do not constitute a comprehensive
35 dental diagnosis and care;

36 (6) the dental hygienist provides a copy of the findings and the report
37 of treatment to the sponsoring dentist and any other dental or medical
38 supervisor at a participating organization found in this subsection; and

39 (7) any payment to the dental hygienist for dental hygiene services is
40 received from the sponsoring dentist or the participating organization
41 found in this subsection.

42 (g) The practice of dental hygiene may be performed on persons with
43 developmental disabilities and on persons who are 65 years and older who

1 live in a residential center, an adult care home, subsidized housing,
2 hospital long-term care unit, state institution or are served in a community
3 senior service center, elderly nutrition program or at the home of a
4 homebound person who qualifies for the federal home and community
5 based service (HCBS) waiver on a resident of a facility, client or patient
6 thereof so long as:

7 (1) The dental hygienist has received an "extended care permit II"
8 from the Kansas dental board specifying that the dental hygienist has: (A)
9 performed 1,800 hours of dental hygiene care or has been an instructor at
10 an accredited dental hygiene program for two academic years within the
11 past three years; and (B) completed six hours of training on the care of
12 special needs patients or other training as may be accepted by the board;

13 (2) the dental hygienist shows proof of professional liability
14 insurance;

15 (3) the dental hygienist is sponsored by a dentist licensed in the state
16 of Kansas, including a signed agreement stating that the dentist shall
17 monitor the dental hygienist's activities, except such dentist shall not
18 monitor more than five dental hygienists with an extended care permit II;

19 (4) the tasks and procedures are limited to: (A) removal of extraneous
20 deposits, stains and debris from the teeth and the rendering of smooth
21 surfaces of the teeth to the depths of the gingival sulci; (B) the application
22 of topical anesthetic if the dental hygienist has completed the required
23 course of instruction approved by the dental board; (C) the application of
24 fluoride; (D) dental hygiene instruction; (E) assessment of the patient's
25 apparent need for further evaluation by a dentist to diagnose the presence
26 of dental caries and other abnormalities; and (F) other duties as may be
27 delegated verbally or in writing by the sponsoring dentist consistent with
28 this act;

29 (5) the dental hygienist advises the patient and legal guardian that the
30 services are preventive in nature and do not constitute comprehensive
31 dental diagnosis and care;

32 (6) the dental hygienist provides a copy of the findings and the report
33 of treatment to the sponsoring dentist and any other dental or medical
34 supervisor at a participating organization found in this subsection;

35 (7) any payment to the dental hygienist for dental hygiene services is
36 received from the sponsoring dentist or the participating organization
37 found in this subsection; and

38 (8) the dental hygienist completes a minimum of six hours of
39 education in the area of special needs care within the board's continuing
40 dental education requirements for relicensure.

41 *(h) The expanded practice of dental hygiene may be performed with*
42 *consent of the parent or legal guardian, on children participating in*
43 *residential and nonresidential centers for therapeutic services, on all*

1 children in families which are receiving family preservation services, on
2 all children in the custody of the secretary of social and rehabilitation
3 services or the commissioner of juvenile justice authority and in an out-of-
4 home placement residing in foster care homes, on children being served by
5 runaway youth programs and homeless shelters; and on children birth to
6 five and children in public and nonpublic schools kindergarten through
7 grade 12 regardless of the time of year and children participating in youth
8 organizations, so long as such children birth to five, in public or nonpublic
9 schools or participating in youth organizations also meet the requirements
10 of medicaid, healthwave or Indian health services or have not been seen
11 by a dentist during the previous 12 months for a dental exam; at any state
12 correctional institution, local health department or indigent health care
13 clinic, as defined in K.S.A. 65-1466, and amendments thereto, and at any
14 federally qualified health center, federally qualified health center look-
15 alike or a community health center that receives funding from section 330
16 of the health center consolidation act, on a person, inmate, client or
17 patient; on persons with developmental disabilities and on persons who
18 are 65 years and older who live in a residential center, an adult care
19 home, subsidized housing, hospital long-term care unit, state institution or
20 are served in a community senior service center, elderly nutrition program
21 or at the home of a homebound person who qualifies for the federal home
22 and community based service (HCBS) waiver on a resident of a facility,
23 client or patient thereof so long as:

24 (1) The dental hygienist has received an "extended care permit III"
25 from the Kansas dental board specifying that the dental hygienist has: (A)
26 Performed 2,000 hours of dental hygiene care or has been an instructor at
27 an accredited dental hygiene program for three academic years within the
28 past four years; and (B) completed a course of study of 18 seat hours
29 approved by the board which includes, but is not limited to, emergency
30 dental care techniques, the preparation and placement of temporary
31 restorations, the adjustment of dental prostheses and appropriate
32 pharmacology;

33 (2) the dental hygienist shows proof of professional liability
34 insurance;

35 (3) the dental hygienist is sponsored by a dentist licensed in the state
36 of Kansas, including a signed agreement stating that the dentist shall
37 monitor the dental hygienist's activities, except such dentist shall not
38 monitor more than five dental hygienists with an extended care permit III;

39 (4) the tasks and procedures are limited to: (A) Removal of
40 extraneous deposits, stains and debris from the teeth and the rendering of
41 smooth surfaces of the teeth to the depths of the gingival sulci; (B) the
42 application of topical anesthetic if the dental hygienist has completed the
43 required course of instruction approved by the dental board; (C) the

1 application of fluoride; (D) dental hygiene instruction; (E) assessment of
2 the patient's apparent need for further evaluation by a dentist to diagnose
3 the presence of dental caries and other abnormalities; (F) identification
4 and removal of decay using hand instrumentation and placing a
5 temporary filling, including glass ionomer and other palliative materials;
6 (G) adjustment of dentures, placing soft relines in dentures, checking
7 partial dentures for sore spots and placing permanent identification
8 labeling in dentures; (H) smoothing of a sharp tooth with a slow speed
9 dental handpiece; (I) use of local anesthetic, including topical, infiltration
10 and block anesthesia, when appropriate to assist with procedures where
11 medical services are available in a nursing home, health clinic or any
12 other settings. If the dental hygienist has completed a course on local
13 anesthesia and nitrous oxide as required in this act; (J) extraction of
14 deciduous teeth that are partially exfoliated with class 4 mobility; (K)
15 prescription of fluoride, chlorhexidine, antibiotics and antifungal as
16 directed by a standing order from a sponsoring dentist; and (L) other
17 duties as may be delegated verbally or in writing by the sponsoring dentist
18 consistent with this act;

19 (5) the dental hygienist advises the patient and legal guardian that
20 the services are preventive in nature and do not constitute comprehensive
21 dental diagnosis and care;

22 (6) the dental hygienist provides a copy of the findings and the report
23 of treatment to the sponsoring dentist and any other dental or medical
24 supervisor at a participating organization found in this subsection;

25 (7) any payment to the dental hygienist for dental hygiene services is
26 received from the sponsoring dentist or the participating organization
27 found in this subsection; and

28 (8) the dental hygienist completes a minimum of three hours of
29 education related to the expanded scope of dental hygiene practice in
30 subsection (h)(4) of this act within the board's continuing dental education
31 requirements for relicensure.

32 ~~(h)~~ (i) In addition to the duties specifically mentioned in subsection
33 (b) of K.S.A. 65-1456, and amendments thereto, any duly licensed dental
34 hygienist may:

35 (1) Give fluoride treatments as a prophylactic measure, as defined by
36 the United States public health service and as recommended for use in
37 dentistry;

38 (2) remove overhanging restoration margins and periodontal surgery
39 materials by hand scaling instruments; and

40 (3) administer local block and infiltration anaesthesia and nitrous
41 oxide. (A) The administration of local anaesthesia shall be performed
42 under the direct supervision of a licensed dentist except that topically
43 applied local anaesthesia, as defined by the board, may be administered

1 under the general supervision of a licensed dentist. (B) Each dental
2 hygienist who administers local anaesthesia regardless of the type shall
3 have completed courses of instruction in local anaesthesia and nitrous
4 oxide which have been approved by the board.

5 ~~(j)~~ (j) (1) The courses of instruction required in subsection ~~(h)(3)(B)~~
6 ~~(i)(3)(B)~~ shall provide a minimum of 12 hours of instruction at a teaching
7 institution accredited by the American dental association.

8 (2) The courses of instruction shall include courses which provide
9 both didactic and clinical instruction in: (A) Theory of pain control; (B)
10 anatomy; (C) medical history; (D) pharmacology; and (E) emergencies and
11 complications.

12 (3) Certification in cardiac pulmonary resuscitation shall be required
13 in all cases.

14 ~~(k)~~ (k) The board is authorized to issue to a qualified dental hygienist
15 an extended care permit I or extended care permit II, *or extended care*
16 *permit III* as provided in subsections (f) ~~and~~, (g) *and* (h) of this section.

17 ~~(l)~~ (l) Nothing in this section shall be construed to prevent a dental
18 hygienist from providing dental hygiene instruction or visual oral health
19 care screenings or fluoride applications in a school or community based
20 setting regardless of the age of the patient.

21 New Sec. 2. The state board of regents shall endeavor to add
22 additional seats at the university of Missouri-Kansas City school of
23 dentistry or other locations with the requirement that such students provide
24 services in underserved areas of Kansas for a minimum of four years after
25 graduation.

26 New Sec. 3. (a) There is established a special volunteer dental license
27 for dentists who are retired from active practice and wish to donate their
28 expertise for the dental care and treatment of indigent and underserved
29 persons of the state. The special volunteer dental license shall be:

30 (1) Issued by the Kansas dental board to eligible dentists;

31 (2) issued without the payment of an application fee, license fee or
32 renewal fee;

33 (3) issued or renewed without any continuing education requirements;

34 (4) issued for a fiscal year or part thereof; and

35 (5) renewable annually upon approval of the board.

36 (b) A dentist shall meet the following requirements to be eligible for a
37 special volunteer dental license:

38 (1) Completion of a special volunteer dental license application,
39 including documentation of the dentist's dental school graduation and
40 practice history;

41 (2) documentation that the dentist has been previously issued a full
42 and unrestricted license to practice dentistry in Kansas or in another state
43 of the United States and that the dentist has never been the subject of any

1 disciplinary action in any jurisdiction;

2 (3) acknowledgment and documentation that the dentist's practice
3 under the special volunteer dental license will be exclusively and totally
4 devoted to providing dental care to underserved and indigent persons in
5 Kansas; and

6 (4) acknowledgment and documentation that the dentist will not
7 receive or have the expectation to receive any payment or compensation,
8 either direct or indirect, for any dental services rendered under the special
9 volunteer dental license.

10 Sec. 4. K.S.A. 2011 Supp. 75-6102 is hereby amended to read as
11 follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and
12 amendments thereto, unless the context clearly requires otherwise:

13 (a) "State" means the state of Kansas and any department or branch of
14 state government, or any agency, authority, institution or other
15 instrumentality thereof.

16 (b) "Municipality" means any county, township, city, school district
17 or other political or taxing subdivision of the state, or any agency,
18 authority, institution or other instrumentality thereof.

19 (c) "Governmental entity" means state or municipality.

20 (d) (1) "Employee" means: (A) Any officer, employee, servant or
21 member of a board, commission, committee, division, department, branch
22 or council of a governmental entity, including elected or appointed
23 officials and persons acting on behalf or in service of a governmental
24 entity in any official capacity, whether with or without compensation and a
25 charitable health care provider;

26 (B) any steward or racing judge appointed pursuant to K.S.A. 74-
27 8818, and amendments thereto, regardless of whether the services of such
28 steward or racing judge are rendered pursuant to contract as an
29 independent contractor;

30 (C) employees of the United States marshal's service engaged in the
31 transportation of inmates on behalf of the secretary of corrections;

32 (D) a person who is an employee of a nonprofit independent
33 contractor, other than a municipality, under contract to provide educational
34 or vocational training to inmates in the custody of the secretary of
35 corrections and who is engaged in providing such service in an institution
36 under the control of the secretary of corrections provided that such
37 employee does not otherwise have coverage for such acts and omissions
38 within the scope of their employment through a liability insurance contract
39 of such independent contractor;

40 (E) a person who is an employee or volunteer of a nonprofit program,
41 other than a municipality, who has contracted with the commissioner of
42 juvenile justice or with another nonprofit program that has contracted with
43 the commissioner of juvenile justice to provide a juvenile justice program

1 for juvenile offenders in a judicial district provided that such employee or
2 volunteer does not otherwise have coverage for such acts and omissions
3 within the scope of their employment or volunteer activities through a
4 liability insurance contract of such nonprofit program;

5 (F) a person who contracts with the Kansas guardianship program to
6 provide services as a court-appointed guardian or conservator;

7 (G) an employee of an indigent health care clinic;

8 (H) former employees for acts and omissions within the scope of their
9 employment during their former employment with the governmental
10 entity;

11 (I) any member of a regional medical emergency response team,
12 created under the provisions of K.S.A. 48-928, and amendments thereto, in
13 connection with authorized training or upon activation for an emergency
14 response; and

15 (J) medical students enrolled at the university of Kansas medical
16 center who are in clinical training, on or after July 1, 2008, at the
17 university of Kansas medical center or at another health care institution.

18 (2) "Employee" does not include: (A) An individual or entity for
19 actions within the scope of K.S.A. 60-3614, and amendments thereto; or

20 (B) any independent contractor under contract with a governmental
21 entity except those contractors specifically listed in paragraph (1) of this
22 subsection.

23 (e) "Charitable health care provider" means a person licensed by the
24 state board of healing arts as an exempt licensee or a federally active
25 licensee, a person issued a limited permit by the state board of healing arts,
26 a physician assistant licensed by the state board of healing arts, a mental
27 health practitioner licensed by the behavioral sciences regulatory board, an
28 ultrasound technologist currently registered in any area of sonography
29 credentialed through the American registry of radiology technologists, the
30 American registry for diagnostic medical sonography or cardiovascular
31 credentialing international and working under the supervision of a person
32 licensed to practice medicine and surgery, or a health care provider as the
33 term "health care provider" is defined under K.S.A. 65-4921, and
34 amendments thereto, who has entered into an agreement with:

35 (1) The secretary of health and environment under K.S.A. 75-6120,
36 and amendments thereto, who, pursuant to such agreement, gratuitously
37 renders professional services to a person who has provided information
38 which would reasonably lead the health care provider to make the good
39 faith assumption that such person meets the definition of medically
40 indigent person as defined by this section or to a person receiving medical
41 assistance from the programs operated by the Kansas health policy
42 authority, and who is considered an employee of the state of Kansas under
43 K.S.A. 75-6120, and amendments thereto;

1 (2) the secretary of health and environment and who, pursuant to such
2 agreement, gratuitously renders professional services in conducting
3 children's immunization programs administered by the secretary;

4 (3) a local health department or indigent health care clinic, which
5 renders professional services to medically indigent persons or persons
6 receiving medical assistance from the programs operated by the Kansas
7 health policy authority gratuitously or for a fee paid by the local health
8 department or indigent health care clinic to such provider and who is
9 considered an employee of the state of Kansas under K.S.A. 75-6120, and
10 amendments thereto. Professional services rendered by a provider under
11 this paragraph (3) shall be considered gratuitous notwithstanding fees
12 based on income eligibility guidelines charged by a local health
13 department or indigent health care clinic and notwithstanding any fee paid
14 by the local health department or indigent health care clinic to a provider
15 in accordance with this paragraph (3); or

16 (4) the secretary of health and environment to provide dentistry
17 services defined by K.S.A. 65-1422 *et seq.*, and amendments thereto, or
18 dental hygienist services defined by K.S.A. 65-1456, and amendments
19 thereto, that are targeted, but are not limited to medically indigent persons,
20 and are provided on a gratuitous basis: (A) At a location sponsored by a
21 not-for-profit organization that is not the dentist or dental hygienist office
22 location; or (B) *at the office location of a dentist or dental hygienist*
23 *provided the care be delivered as part of a program organized by a not-*
24 *for-profit organization and approved by the secretary of health and*
25 *environment; or (C) a charitable program organized by the dentist that*
26 *has been approved by the secretary of health and environment upon a*
27 *showing that the dentist seeks to treat medically indigent patients on a*
28 *gratuitous basis. Except that such dentistry services and dental hygienist*
29 *services shall not include "oral and maxillofacial surgery" as defined by*
30 *Kansas administrative regulation 71-2-2, or use sedation or general*
31 *anesthesia that result in "deep sedation" or "general anesthesia" as defined*
32 *by Kansas administrative regulation 71-5-1.*

33 (f) "Medically indigent person" means a person who lacks resources
34 to pay for medically necessary health care services and who meets the
35 eligibility criteria for qualification as a medically indigent person
36 established by the secretary of health and environment under K.S.A. 75-
37 6120, and amendments thereto.

38 (g) "Indigent health care clinic" means an outpatient medical care
39 clinic operated on a not-for-profit basis which has a contractual agreement
40 in effect with the secretary of health and environment to provide health
41 care services to medically indigent persons.

42 (h) "Local health department" shall have the meaning ascribed to
43 such term under K.S.A. 65-241, and amendments thereto.

1 (i) "Fire control, fire rescue or emergency medical services
2 equipment" means any vehicle, firefighting tool, protective clothing,
3 breathing apparatus and any other supplies, tools or equipment used in
4 firefighting or fire rescue or in the provision of emergency medical
5 services.

6 Sec. 5. K.S.A. 2011 Supp. 65-1456 and 75-6102 are hereby repealed.

7 Sec. 6. This act shall take effect and be in force from and after its
8 publication in the statute book.

9