



Alan Van Dyne

Bill Analysis
Legislative Service Commission

Sub. H.B. 143*

126th General Assembly

(As Reported by S. Health, Human Services, and Aging)

Reps. Willamowski, White, Raussen, Combs, Fessler, Kearns, Martin, Peterson, Reidelbach, Schneider, Seaver, Webster, Widowfield, Barrett, Beatty, Harwood, C. Evans, McGregor, Seitz, Gilb, Hood, Flowers, Driehaus, Blasdel, Carmichael, Brown, DeBose, Otterman, Mason, Allen, Blessing, Book, Carano, Cassell, Chandler, Core, DeGeeter, Domenick, Gibbs, Hartnett, Hughes, Key, Latta, Law, Miller, Oelslager, Sayre, D. Stewart, Taylor, Yuko

BILL SUMMARY

DENTAL HYGIENISTS

- Permits a dental hygienist who has completed certain education requirements to administer local anesthesia under the direct supervision of a dentist.

EXPANDED FUNCTION DENTAL AUXILIARIES

- Requires an individual who engages in the practice of an expanded function dental auxiliary (EFDA) to register with the State Dental Board and renew registration biennially.
- Provides that an individual who practices as an EFDA without registering is guilty of the same offenses as an individual who practices dentistry or dental hygiene without a valid license.
- Specifies the scope of practice of EFDAs as the placement of sealants and restorative materials and performance of any other procedures specified in rules adopted by the Dental Board.

* *This analysis was prepared before the report of the Senate Health, Human Services, Aging Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Requires the Secretary of the Dental Board to keep a record of all registered EFDAs.
- Requires the Dental Board to adopt rules the Board considers necessary to implement and administer registration of EFDAs.
- Provides that an EFDA's supervising dentist and manager are subject to disciplinary action when an EFDA is found to have committed an action for which disciplinary action is prescribed.
- Adds dental procedures that require the professional competence of an EFDA to the procedures a dentist may not assign to a dental assistant.

DENTAL X-RAY MACHINE OPERATORS

- Prohibits a person from practicing, or holding that person out as, a dental x-ray machine operator without a valid certificate (rather than a license) issued by the Dental Board.
- Eliminates a requirement that an applicant for an x-ray machine operator certificate pass an examination and instead requires the applicant to meet one of the requirements that exempts an applicant from the examination requirement under current law.
- Codifies the requirements an individual must meet to renew an x-ray machine operator certificate.
- Requires a person who wants to offer an educational program in dental x-ray machine operation to apply to the Dental Board for approval, rather than accreditation, of the program.

STATE DENTAL BOARD MEMBERS

- Requires two of the nine dentist members of the Dental Board to be specialists who represent different specialties.
- Requires the Governor to make reasonable efforts to fill a vacancy in a Dental Board position held by a specialist with a person representing a different specialty.

TABLE OF CONTENTS

DENTAL HYGIENISTS

Administration of local anesthesia by dental hygienists	2
Current law	2
The bill.....	4

EXPANDED FUNCTION DENTAL AUXILIARIES

Background.....	5
Scope of practice	6
Registration requirement	6
Exceptions	6
Registration process.....	7
In general	7
Registration renewal.....	8
Recordkeeping	8
Disciplinary actions	8
EFDA registration relative to dental assistants and qualified personnel.....	9
Rulemaking authority	9

DENTAL X-RAY MACHINE OPERATORS

Background.....	10
Certification rather than licensure	10
Application fee	11
Requirements for certification.....	11
Requirements for renewal of certification.....	12
Approval rather than accreditation of educational programs	13
Conditional license	13

STATE DENTAL BOARD MEMBERS

Background.....	13
Members representing dental specialties.....	14

CONTENT AND OPERATION

DENTAL HYGIENISTS

Administration of local anesthesia by dental hygienists

Current law

Pursuant to administrative rule, the only type of anesthesia¹ a dental hygienist is authorized to administer is topical anesthesia (Ohio Administrative Code 4715-9-01(E)). "Topical anesthesia" includes solutions, ointments, or jellies that, when applied to mucous membranes or skin, cause superficial loss of sensation in the area where applied.²

The bill

(R.C. 4715.231)

The bill expands the types of anesthesia a dental hygienist may administer by permitting a dental hygienist to administer intraoral block³ and infiltration⁴ local anesthesia to patients as long as the dental hygienist does all of the following:

- Administers the anesthesia under the direct supervision⁵ of a dentist.

¹ "Anesthesia" means general or local insensibility to pain and other sensation, induced by certain drugs. *THE RANDOM HOUSE COLLEGE DICTIONARY 51 (Revised Ed. 1988).*

² *STEDMAN'S MEDICAL DICTIONARY 71 (24th ed. 1982).*

³ "Block anesthesia" means the production of insensibility of a part by interrupting the sensory nerve conductivity from that region of the body. It may be produced by (1) field block (the creation of walls of anesthesia encircling the operative field by means of injections of local anesthetic), or (2) nerve block (injection of the anesthetic agent close to the nerves whose conductivity is to be cut off). *DORLAND'S ILLUSTRATED MEDICAL DICTIONARY 87 (25th ed. 1974).*

⁴ "Infiltration anesthesia" means anesthesia produced by direct infiltration of local anesthetic solution into the operative site or, rarely, by freezing. *STEDMAN'S MEDICAL DICTIONARY 70 (24th ed. 1982).*

⁵ Under the bill, "direct supervision" means a dentist licensed in Ohio is present, for purposes of consultation and direction, at the location where a dental hygienist performs the administration of local anesthesia to a patient. The bill specifies that it does not mean that the dentist must observe the administration of local anesthesia to a patient.

- Successfully completes a course in the administration of local anesthesia approved by the State Dental Board and offered by a dental or dental hygiene program that is accredited by the Commission on Dental Accreditation of the American Dental Association.
- Within 18 months of completion of the anesthesia course, successfully passes a state or regional written examination on local anesthesia approved by the Board.
- Obtains certification to perform basic cardiac life-support procedures as required under existing law.⁶

With respect to the education requirement, the bill provides that the Board may approve an anesthesia administration course only if it contains no less than 15 hours of didactic instruction and no less than 14 hours of clinical experience. The course must include instruction on each of the following subjects: theory of pain control, selection of pain control modalities, anatomy, neurophysiology, pharmacology of local anesthetics, pharmacology of vasoconstrictors, psychological aspects of pain control, systematic complications, techniques of maxillary and mandibular anesthesia taught by a dentist or other qualified instructor, infection control, and local anesthesia medical emergencies.

EXPANDED FUNCTION DENTAL AUXILIARIES

Background

(R.C. 4715.39; Ohio Administrative Code 4715-3-01 and Chapter 4715-11)

Currently, the regulation of expanded function dental auxiliaries is governed primarily by administrative rules. The Revised Code provides that the State Dental Board may define through administrative rulemaking the duties that may be performed by dental assistants and "other individuals designated by the Board as qualified personnel."

Administrative rules adopted by the Dental Board specify that advanced qualified personnel, or "expanded function dental auxiliaries" (EFDAs), are persons who have passed the Board designated examination for EFDAs. EFDAs may perform "basic and advanced remediable intra-oral dental tasks or procedures" under the direct supervision and full responsibility of a licensed

⁶ R.C. 4715.251 requires a dental hygienist to be currently certified to perform basic life-support procedures by having completed a course certified by the American Red Cross or the American Heart Association.

dentist. "Basic remediable intra-oral dental tasks or procedures" are defined as those dental tasks and procedures that do not create irreparable changes within the oral cavity or the contiguous structures. The rules include a list of tasks and procedures that are considered basic remediable intra-oral dental tasks or procedures. "Advanced remediable intra-oral dental tasks and procedures" are defined as the tasks and procedures involved in the art or placement of preventive or restorative materials, limited to placement of sealants, amalgam restorative materials, and non-metallic restorative materials, including direct-bonded restorative materials.

The rules further provide that a dentist may not use more than two EFDAs at any given time and that a dentist who uses an EFDA must maintain in the dentist's office a current record of the training received by the EFDA and the EFDA's competency certification. A copy of the EFDA's training record and competency certification must also be sent to the Dental Board.

Scope of practice

(R.C. 4715.64)

The bill provides that the practice of expanded function dental auxiliary consists of the following:

- (1) The procedures involved in the placement of restorative materials limited to amalgam restorative materials and non-metallic restorative materials, including direct-bonded restorative materials;
- (2) The procedures involved in the placement of sealants;
- (3) Any additional procedures authorized by the Dental Board in rules.

The bill requires an EFDA to practice under the direct supervision, order, control, and full responsibility of a dentist licensed by the Dental Board. At no time can more than two EFDAs be practicing as EFDAs under the direct supervision of the same dentist. Furthermore, the bill prohibits an EFDA from practicing as an EFDA when the supervising dentist is not physically present at the location where the EFDA is practicing.

The bill also specifies that nothing in it may be considered by Board rule or otherwise to authorize an EFDA to engage in the practice of dental hygiene.

Registration requirement

(R.C. 4715.61 and 4715.99)

The bill prohibits any person from practicing as an EFDA without being registered with the Dental Board as an EFDA. A person who violates this prohibition is guilty of the same offenses as a person who practices dentistry or dental hygiene without a license: a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

Exceptions

The bill specifies that the prohibition on practicing without registering with the Board as an EFDA does not apply to the following:

- (1) A dentist licensed by the Board;
- (2) A dental student who engages in any activities performed by EFDAs as an integral part of a program of study leading to the receipt of a license from the Board to practice as a dentist;
- (3) An expanded function dental auxiliary student when the student participates in an educational or training activity of an accredited educational institution or a training program that does both of the following:
 - (a) Provides the education or training necessary to practice as an EFDA;
 - (b) Ensures that a dentist licensed by the Board, or a dentist who holds a limited teaching license issued by the Board, is physically present in the facility where the EFDA performs clinical dental procedures on patients.

Registration process

(R.C. 4715.62)

In general

Each individual seeking to register as an EFDA must file, under oath, a written application with the Secretary of the Dental Board on a form prescribed and provided by the Board. A completed application must include all of the following:

- (1) An application fee of \$20.
- (2) Proof satisfactory to the Board that the applicant has successfully completed, at an educational institution accredited by the Commission on Dental

Accreditation of the American Dental Association or the Higher Learning Commission of the North Central Association of Colleges and Schools, the education or training specified by the Board in rules as the education or training that is necessary to obtain registration to practice as an EFDA, as evidenced by a diploma or other certificate of graduation or completion that has been signed by an appropriate official of the accredited institution that provided education or training.

(3) Evidence satisfactory to the Board that the individual has passed an examination that meets the standards established by the Board in rules to be accepted by the Board as an examination of competency to practice as an EFDA.

(4) Proof that the applicant holds current certification to perform basic life-support procedures, evidenced by documentation showing the successful completion of a basic life-support training course certified by either the American Red Cross or the American Heart Association.

If an applicant meets all of the above requirements, the bill requires the Board to register the applicant as an EFDA.

Registration renewal

(R.C. 4715.63)

The bill provides that an EFDA's registration expires on December 31 of the year following the year in which the EFDA registers. An EFDA may renew a registration for subsequent two-year periods by submitting a completed renewal application and a renewal fee of \$20 each time the EFDA seeks to renew a registration.

The bill requires the Dental Board to renew a registration if the EFDA is not in violation of any other law or rule governing the practice of an expanded function dental auxiliary. Registration renewals must be made in accordance with the standard licensure renewal procedure that applies under existing law to the Dental Board and other professional licensing boards.

Recordkeeping

(R.C. 4715.65)

The bill requires the Secretary of the Dental Board to keep a record of all persons registered as EFDAs. For each EFDA, the record must identify the location where the person primarily practices and the person's supervising dentists.

Disciplinary actions

(R.C. 4715.30)

Under current law one of the reasons for which a certificate or license holder may be disciplined by the Dental Board is for allowing dental hygienists or other practitioners of auxiliary dental occupations working under the certificate or license holder's supervision to provide dental care that departs from or fails to conform to accepted standards for the profession, whether or not injury to a patient results. The bill adds that a certificate or license holder is also subject to disciplinary action if that certificate or license holder allows *EFDA*s working under the certificate or license holder's supervision to provide dental care that departs from or fails to conform to accepted standards for the profession, whether or not injury to a patient results.

Current law also provides that a manager, proprietor, operator, or conductor of a dental facility is subject to disciplinary action if a dentist, dental hygienist, or qualified personnel providing services in the facility is found to have committed an action for which disciplinary action is prescribed. The bill adds that a manager, proprietor, operator, or conductor of a dental facility is subject to disciplinary action *if an EFDA* providing services in the facility is found to have committed an action for which disciplinary action is prescribed.

EFDA registration relative to dental assistants and qualified personnel

(R.C. 4715.39)

Existing law provides that, subject to law and administrative rules adopted by the Dental Board, licensed dentists may assign to dental assistants and other qualified personnel dental procedures that do not require the professional competence or skill of a licensed dentist or a dental hygienist. The bill further restricts the procedures a licensed dentist may assign to a dental assistant by providing that a dental assistant may not be assigned dental procedures that require the professional competence of an EFDA.

The bill specifies that nothing in it permits dental assistants or other qualified personnel to engage in the practice of an expanded function dental auxiliary or to perform the duties of an EFDA other than as authorized by law.

Rulemaking authority

(R.C. 4715.66)

The bill requires the Dental Board to adopt rules, consistent with the Administrative Procedure Act (R.C. Chapter 119.), that the Board considers

necessary to implement and administer the laws governing the practice and registration of EFDAs. The bill specifies that the Board is subject to the following when adopting the rules:

(1) The Board is authorized to adopt rules specifying procedures that an EFDA may perform that are in addition to the procedures involved in the placement of sealants and restorative materials.

(2) The Board is required to adopt rules specifying the education or training necessary for an individual to register as an EFDA.

(3) The Board must adopt rules specifying the standards that must be met for an examination to be accepted by the Board as an examination of competency to practice as an EFDA. In specifying the standards, the Board must provide that an examination will be accepted only if the entity that administered the examination required an individual to be one of the following as a condition of admission:

(a) An unlicensed dentist who has graduated from an accredited dental college and does not have a dental license under suspension or revocation by the Board;

(b) A dental student who is enrolled in an accredited dental college and is considered by the dean of the college to be in good standing;

(c) A graduate of a foreign dental college;

(d) A dental assistant who is certified by the Dental Assisting National Board or the Ohio Commission on Dental Assistant Certification;

(e) A dental hygienist licensed with the Board whose license is in good standing;

(f) An unlicensed dental hygienist who has graduated from an accredited dental hygiene school and does not have a dental hygienist license under suspension or revocation by the Board.

DENTAL X-RAY MACHINE OPERATORS

Background

(R.C. 4715.51 (not in the bill))

Under current law unchanged by the bill, a "dental x-ray machine operator" is an individual who, under the direct supervision of a dentist, performs standard,

diagnostic, radiologic procedures for the purpose of contributing to the provision of dental care to a dental patient.⁷

Certification rather than licensure

(R.C. 4715.52)

Current law prohibits a person from practicing or holding the person's self out as a dental x-ray machine operator without a valid license issued by the Dental Board. The following individuals, however, are exempt from this requirement:

- (1) Dentists and dental hygienists licensed by the Board;
- (2) Radiologic personnel employed by the federal government or serving in a branch of the armed forces;
- (3) Students engaging in any of the activities performed by dental x-ray machine operators as an integral part of a program of study leading to the receipt of a license or certificate issued by the Board.

The bill prohibits a person (except for the individuals discussed above) from practicing or holding the person's self out as a dental x-ray machine operator without a valid certificate (rather than license) issued by the Board.

Application fee

(R.C. 4715.53(A))

Under current law, each individual who seeks a license to practice as a dental x-ray machine operator must apply to the Dental Board on a form the Board prescribes and provides. The application must be accompanied by the license application fee established in rules adopted by the Board. Presently, administrative rules set the application fee at \$25.

The bill removes the Board's authority to establish the application fee in rules, instead specifying in statute that the fee is \$25.

⁷ "Standard, diagnostic, radiologic procedures" means those procedures involved in using dental equipment that emits ionizing radiation.

Requirements for certification

(R.C. 4715.53(B); 4715.54 (repealed))

Current law requires the Dental Board to issue a license to practice as a dental x-ray machine operator to an applicant who meets all of the following requirements:

- (1) Is age 18 or older;
- (2) Is of good moral character;
- (3) Passes an examination administered by the Board;⁸
- (4) Complies with any other licensing standards established by the Board in rules.

The bill eliminates the requirements discussed above and instead requires the Board to issue a *certificate* (instead of a license) to an applicant who submits evidence satisfactory to the Board that one of the following is the case:

(1) The applicant holds certification from the Dental Assisting National Board or the Ohio Commission on Dental Assistant Certification;

(2) The applicant holds a license, certificate, permit, registration, or other credential issued by another state the Board determines uses standards for dental x-ray machine operators that are at least equal to those established in Ohio;

(3) The applicant has successfully completed an educational program consisting of at least seven hours of instruction in dental x-ray machine operation that (a) has been approved by the Board, or (b) is conducted by an institution accredited by the American Dental Association Commission on Dental Accreditation.

Thus, the bill eliminates the requirement that an applicant for a dental x-ray machine operator's license pass an examination developed by the Dental Board

⁸ However, the following individuals are exempted from the examination requirements: (a) applicants who hold certification from the Dental Assisting National Board or the Ohio Commission on Dental Assistant Certification, (b) applicants who hold a conditional license issued by the Board and have completed continuing education requirements established by the Board in rules, and (c) applicants who hold a license, certificate, or other credential issued by another state that the Board determines uses standards for dental x-ray machine operators that are at least equal to those required in Ohio.

and instead requires the applicant to meet one of the requirements that presently exempts an applicant from the examination requirement.

Requirements for renewal of certification

(R.C. 4715.53(C); Ohio Administrative Code 4715-12-03 and 4715-12-05)

Under existing law, a dental x-ray machine operator's license may be renewed if the license holder provides proof to the Board at the time of renewal that the license holder has met the continuing education requirements specified, and pays the renewal fee adopted, by the Board in rules. The rules governing continuing education requirements for dental x-ray machine operators provide that a license holder must complete a minimum of two hours of continuing education in dental x-ray radiation technology in the two years preceding renewal. The rules also provide that the renewal fee is \$25.

The bill codifies the requirements an individual must meet to renew a certificate to practice as a dental x-ray machine operator. Under the bill, a certificate holder may renew a certificate if the holder does both of the following:

(1) Certifies to the Board that the certificate holder has completed at least two hours of instruction in dental x-ray machine operation approved by the Board during the two-year period preceding the date the renewal application is received by the Board;

(2) Submits a renewal fee of \$25.

Approval rather than accreditation of educational programs

(R.C. 4715.57 and 4715.58 (repealed))

Current law requires each person seeking accreditation for an educational program in dental x-ray machine operation to apply to the Dental Board on a form the Board must prescribe and provide. The application must be accompanied by a fee established in rules, which is currently \$67.50.⁹ The Board must accredit educational programs that meet standards established in rules adopted by the Board. The accreditation is valid until surrendered by the program, or suspended or revoked by the Board. A program's accreditation may be suspended or revoked if the program does not comply with applicable requirements of the Dental Practices Act (R.C. Chapter 4715.) or any rules adopted under it.

The bill requires a person who wants to offer an educational program in dental x-ray machine operation to instead apply for *approval*, rather than

⁹ O.A.C. 4715-12-04(C).

accreditation, of the program. The bill also relocates existing provisions regarding the Board's authority to adopt rules relative to educational programs. The bill continues to require that the rules for educational programs be no less stringent than standards specified in federal regulations.¹⁰ The rules must establish at least both of the following:

- (1) The fee that must accompany an application for approval of an educational program;
- (2) The standards that an educational program must meet to be approved.

Conditional license

(R.C. 4715.55 (repealed))

The bill eliminates provisions that until October 20, 1995, permitted an individual engaging in the activities of a dental x-ray machine operator to obtain a conditional license.

STATE DENTAL BOARD MEMBERS

Background

Under current law, nine members of the 13-member State Dental Board must be dentists who are graduates of reputable dental colleges, U.S. citizens, and have been in the legal and reputable practice of dentistry in Ohio for at least five years preceding appointment. Of these nine, *not more than two* can be specialists pursuant to rules adopted by the Board.¹¹

Members representing dental specialties

(R.C. 4715.02)

The bill requires two of the nine dentist members of the Board to be specialists and requires that they be appointed in such a manner that the same specialty is not represented by both members at the same time. When a vacancy occurs in a position held by a specialist member, the Governor is required by the

¹⁰ 42 Code of Federal Regulations 75.

¹¹ According to Rebecca Hockenberry, Assistant Director of the Dental Board, Ohio Administrative Code 4715-5-04 lists the specialist designations the Board recognizes: (1) orthodontists, (2) oral surgeons, (3) oral and maxillofacial surgeons, (4) oral and maxillofacial radiologists, (5) periodontists, (6) pedodontists, (7) pediatric dentists, (8) prosthodontists, (9) endodontists, (10) oral pathologists, and (11) public health dentists.

bill to make all reasonable efforts to fill the vacancy with a person who represents a specialty that is different from the specialty that was represented by the member who vacated the position.

HISTORY

ACTION	DATE
Introduced	03-22-05
Reported, H. Health	06-16-05
Passed House (95-0)	10-05-05
Reported, S. Health, Human Services & Aging	---

h0143-rs-126.doc/kl

