

SENATE BILL NO. 120

INTRODUCED BY N. SWANDAL, W. CURDY, D. SANDS

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PRACTICES FOR DENTAL HYGIENISTS; ALLOWING TOPICAL AGENT PRESCRIPTIONS BY DENTAL HYGIENISTS FOR FLUORIDE AGENTS, ORAL ANESTHETICS, AND NONSYSTEMIC ORAL ANTIMICROBIALS; REVISING DENTIST SUPERVISION REQUIREMENTS FOR THE ADMINISTRATION OF LOCAL ANESTHETICS BY DENTAL HYGIENISTS; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-4-401 AND 37-4-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 37-4-401, MCA, is amended to read:

**"37-4-401. Practice of dental hygiene -- rulemaking.** (1)(a) The practice of dental hygiene is services, performed by a licensed preventive oral health practitioner known as a dental hygienist, that are educational, therapeutic, prophylactic, or preventive procedures in nature, as the board ~~in writing~~ defines and authorizes through rule, and that may be performed under general supervision of a licensed dentist.

(b) The practice of dental hygiene also includes and the board shall authorize the administration of local anesthetic agents by a licensed dental hygienist certified by the board to administer the agents ~~only~~ under the ~~direct~~ general supervision and authorization of a licensed dentist. ~~However, this section~~

~~(c) The practice of dental hygiene also includes limited prescriptive authority, as determined by the board by rule. The prescriptive authority must include fluoride agents, topical oral anesthetic agents, and nonsystemic oral antimicrobials.~~

(C) (I) THE PRACTICE OF DENTAL HYGIENE ALSO INCLUDES PRESCRIPTIVE AUTHORITY LIMITED TO FLUORIDE AGENTS, TOPICAL ORAL ANESTHETIC AGENTS, AND NONSYSTEMIC ORAL ANTIMICROBIALS THAT:

(A) ARE NOT CONTROLLED SUBSTANCES; AND

(B) DO NOT REQUIRE A LICENSE BY THE FEDERAL DRUG ENFORCEMENT AGENCY; AND

~~(C) ARE IDENTIFIED IN A DRUG FORMULARY APPROVED BY THE BOARD THROUGH RULE IN CONSULTATION WITH THE BOARD OF PHARMACY. FOR PURPOSES OF THIS SECTION, THE BOARD'S CONSULTATION WITH THE BOARD OF PHARMACY MUST BE DONE WHEN NECESSARY.~~



1           (II) PRESCRIPTIVE AUTHORITY UNDER THIS SECTION MUST BE:  
 2           (A) DONE UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST OR BY A DENTAL HYGIENIST PRACTICING  
 3 WITH A LIMITED ACCESS PERMIT UNDER PUBLIC HEALTH SUPERVISION;  
 4           (B) PURSUANT TO RULES ADOPTED BY THE BOARD; AND  
 5           (C) IN COMPLIANCE WITH APPLICABLE LAWS CONCERNING PRESCRIPTION PACKAGING, LABELING, AND  
 6 RECORDKEEPING REQUIREMENTS.

7           (III) THE BOARD SHALL DETERMINE BY RULE THE EDUCATION AND COMPETENCY REQUIREMENTS REQUIRED FOR  
 8 DENTAL HYGIENE PRESCRIPTIVE AUTHORITY.

9           (IV) THE BOARD SHALL DETERMINE BY RULE THE PERCENTAGE OF FLUORIDE, CHLORHEXIDINE GLUCONATE, OR  
 10 ANY OTHER ACTIVE INGREDIENTS IN ANY MEDICATION THAT MAY BE PRESCRIBED BY A DENTAL HYGIENIST UNDER THIS  
 11 SECTION.

12           (2) Subsection (1) does not allow the board or a licensed dentist to delegate any of the following duties:

13           (1)(a) diagnosis, treatment planning, and prescription other than prescriptions authorized under  
 14 subsection (1)(c);

15           (2)(b) surgical procedures on hard and soft tissues other than root planing and subgingival curettage;

16           (3)(c) restorative, prosthetic, orthodontic, and other procedures ~~which~~ that require the knowledge and  
 17 skill of a dentist;

18           (4)(d) prescription for drugs or medications, other than those listed under subsection (1)(c); or

19           (e) work authorizations."  
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21           **Section 2.** Section 37-4-405, MCA, is amended to read:

22           **"37-4-405. Dental hygienist to practice under supervision of licensed dentist -- exceptions --**  
 23 **definitions.** (1) A licensed dental hygienist may:

24           (a) with the permission of the supervising dentist, practice in the office of a licensed and actively  
 25 practicing dentist under the general supervision of a licensed dentist; or

26           (b) provide dental hygiene preventative services in a public health facility under the general supervision  
 27 of a licensed dentist or, subject to the provisions of subsection (4), under public health supervision.

28           (2) A dental hygienist may give instruction in oral hygiene without the direct supervision or general  
 29 supervision of a licensed dentist in a public or private institution or hospital or extended care facility or under a  
 30 board of health or in a public clinic.

1 (3) For the purposes of this section, the following definitions apply:

2 (a) "direct supervision" means treatment by a dental auxiliary or licensed dental hygienist provided with  
3 the intent and knowledge of the dentist. The treatment must be performed while the dentist is on the premises.

4 (b) "general supervision" means treatment, ~~except the administration of local anesthesia,~~ by a licensed  
5 dental hygienist provided with the intent and knowledge of the dentist licensed and residing in the state of  
6 Montana. The supervising dentist need not be on the premises.

7 (c) "public health facility" means:

8 (i) federally qualified health centers; federally funded community health centers, migrant health care  
9 centers, or programs for health services for the homeless established pursuant to the Public Health Service Act,  
10 42 U.S.C. 254b; nursing homes; extended care facilities; home health agencies; group homes for the elderly,  
11 disabled, and youth; head start programs; migrant worker facilities; local public health clinics and facilities; public  
12 institutions under the department of public health and human services; and mobile public health clinics; and

13 (ii) other public health facilities and programs identified by the board under subsection (6); and

14 (d) "public health supervision" means the provision of limited dental hygiene preventative services  
15 without the prior authorization or presence of a licensed dentist in a public health facility.

16 (4) (a) A licensed dental hygienist practicing under public health supervision may provide dental hygiene  
17 preventative services that include removal of deposits and stains from the surfaces of teeth, the application of  
18 topical fluoride, polishing restorations, root planing, placing of sealants, oral cancer screening, exposing  
19 radiographs, ~~and charting of services provided,~~ and prescriptive authority as allowed under 37-4-401(1)(c).

20 (b) A licensed dental hygienist practicing under public health supervision may not provide dental hygiene  
21 preventative services that include local anesthesia, denture soft lines, temporary restorations, or any other service  
22 prohibited under 37-4-401.

23 (c) A licensed dental hygienist practicing under public health supervision shall provide:

24 (i) for the referral to a licensed dentist of any patient needing treatment outside the scope of practice  
25 authorized for a licensed dental hygienist under this subsection (4); and

26 (ii) treatment based upon medical and dental health guidelines adopted by rule by the board.

27 (5) (a) A dental hygienist practicing under public health supervision shall obtain a limited access permit  
28 from the board.

29 (b) The board shall adopt rules:

30 (i) defining the qualifications necessary to obtain a limited access permit; and

1 (ii) providing a process for obtaining a limited access permit.

2 (c) The provision of services under a limited access permit is limited to patients or residents of facilities  
3 or programs who, due to age, infirmity, disability, or financial constraints, are unable to receive regular dental  
4 care.

5 (6) The board may identify, by rule, other public health facilities and programs, in addition to those listed  
6 in subsection (3)(c), at which services under a limited access permit may be provided."

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8 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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