

SESSION OF 2007

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE BILL NO. 2214**

As Agreed to April 2, 2007

**Brief\***

HB 2214 would add to and change provisions in the Dental Practices Act relating to the use of sedation by dentists. The bill also would make changes in the act relating to the practice of dental hygienists.

**Sedation Permits**

The bill would authorize the Kansas Dental Board to issue a sedation permit to a licensed dentist who meets the qualifications set by the Board through rules and regulations. New authority would be given to the Board to deny, revoke, suspend, or limit a sedation permit for violation of the requirements for sedation established by rules and regulations of the Board. The Board would be authorized to assess a fine in an amount that does not exceed \$10,000 against a sedation permit holder in lieu of revoking, suspending, or limiting the permit or in addition to any other action against the permit holder. Finally, the bill would allow the Board to charge a fee to sedation permit holders, in an amount not to exceed \$200.

**Dental Hygienists**

The bill also would amend a statute that concerns the licensing and regulation of dental hygienists to extend the circumstances in which certain dental hygienists who have qualified for an extended care permit may practice without

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being under the direct or general supervision of a licensed dentist and at the office of such licensed dentist. The bill also would create a new statute that sets out requirements to be met by a hygienist who has not been in active practice for three years to qualify for an extended care permit.

Under current law, dental hygienists who have qualified for an extended care permit issued by the Dental Board may provide specified services for specified persons located in specific settings if the hygienist has an extended care permit, shows proof of professional liability insurance, is sponsored by a licensed dentist, provides only those services authorized by law, and meets other statutory requirements. The bill would expand the settings in which services may be provided to include children receiving services in residential or nonresidential centers for therapeutic services; children in families receiving family preservation services; children in the custody of the Secretary of Social and Rehabilitation Services or the Commissioner of the Juvenile Justice Authority and in out-of-home placement in foster care homes; children being served by runaway youth programs and homeless shelters; children from birth to five and children in public and nonpublic schools regardless of the time of year; and children participating in youth organizations who meet the requirements of Medicaid, HealthWave, free or reduced lunch programs, or Indian Health Services. Authority to provide services also is extended to include persons who are clients, patients, or inmates of federally qualified health centers, federally qualified health center look-alikes, and community health centers if the centers qualify for specific federal funding.

The bill would change the requirements to be met to qualify for an extended care permit; authorize certain hygienists having an extended care permit to apply topical anesthetics; expand the settings in which services may be provided to persons who are 65 and older or developmentally disabled by a hygienist who holds an extended care permit, as well as meeting other requirements; authorize the application by qualified hygienists of topically applied local anaesthesia under the general supervision of a licensed dentist; and authorize

licensed dental hygienists to carry out fluoride applications in a school or community-based setting.

### **Conference Committee Action**

The Conference Committee added the subject matter of SB 176, as amended by Senate Committee, into HB 2214. The added sections, dealing with dental hygienists, are identical to SB 176 except for the addition of clarifying language.

### **Background**

HB 2214 was introduced by the House Committee on Health and Human Services at the request of the Kansas Dental Board. The Executive Director of the Board indicated the bill would provide the Board with the statutory authority to take disciplinary action when there has been a violation of sedation requirements or unprofessional conduct. The Board is in the process of drafting new regulations for sedation permits.

The House Committee amendments authorize the Board to impose fines for a sedation permit violation and clarify that the fine would be made in accordance with the Board's current authority. The House Committee also amended the bill to authorize a statutory maximum fee for sedation permits (originally contained in 2007 HB 2215).

The Senate Committee amendments give the Dental Board statutory authority to issue a sedation permit. (Although the Board currently has statutory authority to issue several other types of permits, no such authority exists in regard to persons authorized to engage in the administration of sedation and general anesthetics.) The Committee amendments delete references to unprofessional conduct since, while the Board has no statutory authority to define unprofessional conduct for licensed dentists or dental hygienists, it does have specific authority to establish the qualifications of licensed dentists who

choose to seek authorization to administer sedation and general anesthesia.

The fiscal note prepared by the Division of the Budget on the original bill indicates passage of the bill could, according to the Kansas Dental Board, create additional legal prosecutions of dentists who violate the Board's sedation requirements. If there are additional prosecutions, this could increase the Board's expenses for attorney fees. However, the Board is unable to estimate the total cost of the additional legal expenses in future years.

SB 176 was introduced at the request of a coalition of persons who had worked to develop changes in the law allowing certain dental hygienists to provide certain services outside the dental office and under the sponsorship of a licensed dentist. Written or oral testimony in support of the bill was presented by representatives of the Kansas Dental Hygienists Association, the Kansas Dental Association, the Kansas Dental Board, Oral Health Kansas, Kansas Association for the Medically Underserved, Kansas Area Agencies on Aging, Kansas Action for Children, Kansas Department on Aging, the Children's Alliance, the St. Francis Academy, and the Juvenile Justice Authority. Several dental hygienists also testified in support of the bill. The Senate Committee amendments were proposed by conferees.

The fiscal note on SB 176 indicates the Kansas Dental Board believes there would be additional costs in the form of staff time to process permits, but estimates the cost would be minimal.

dental practices act