

By: Deuell S.B. No. 726
(In the Senate - Filed February 24, 2005; March 2, 2005,
read first time and referred to Committee on Health and Human
Services; March 30, 2005, reported favorably by the following
vote: Yeas 6, Nays 1; March 30, 2005, sent to printer.)

A BILL TO BE ENTITLED
AN ACT

relating to the authority of a dental hygienist to prescribe and
administer fluoride varnish.

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

SECTION 1. Section 258.001, Occupations Code, is amended to
read as follows:

Sec. 258.001. IMPERMISSIBLE DELEGATIONS. A dentist may not
delegate:

(1) an act to an individual who, by board order, is
prohibited from performing the act;

(2) any of the following acts to a person not licensed
as a dentist or dental hygienist:

(A) the removal of calculus, deposits, or
accretions from the natural and restored surfaces of exposed human
teeth and restorations in the human mouth;

(B) root planing or the smoothing and polishing
of roughened root surfaces or exposed human teeth; or

(C) any other act the delegation of which is
prohibited by board rule;

(3) any of the following acts to a person not licensed
as a dentist:

(A) comprehensive examination or diagnosis and
treatment planning;

(B) a surgical or cutting procedure on hard or
soft tissue;

(C) except as provided by Section 262.153, the
prescription of a drug, medication, or work authorization;

(D) the taking of an impression for a final
restoration, appliance, or prosthesis;

(E) the making of an intraoral occlusal
adjustment;

(F) direct pulp capping, pulpotomy, or any other
endodontic procedure;

(G) the final placement and intraoral adjustment
of a fixed or removable appliance; or

(H) the placement of any final restoration; or

(4) the authority to an individual to administer a
local anesthetic agent, inhalation sedative agent, parenteral
sedative agent, or general anesthetic agent if the individual is
not licensed as:

(A) a dentist with a permit issued by the board
for the procedure being performed, if a permit is required;

(B) a certified registered nurse anesthetist
licensed by the Board of Nurse Examiners, only if the delegating
dentist holds a permit issued by the board for the procedure being
performed, if a permit is required; or

(C) a physician anesthesiologist licensed by the
Texas State Board of Medical Examiners.

SECTION 2. Subsection (a), Section 262.151, Occupations
Code, is amended to read as follows:

(a) A licensed dentist may delegate orally or in writing a
service, task, or procedure to a dental hygienist who is under the
supervision and responsibility of the dentist, if:

(1) the dental hygienist is licensed to perform the
service, task, or procedure;

(2) the supervising dentist examines the patient:

(A) at the time the service, task, or procedure
is performed by the dental hygienist; or

(B) during the 12 calendar months preceding the date of performance of the service, task, or procedure by the dental hygienist; and

(3) the dental hygienist does not:
 (A) diagnose a dental disease or ailment;
 (B) prescribe a treatment or a regimen;
 (C) except as provided by Section 262.153, prescribe, order, or dispense medication; or
 (D) perform any procedure that is irreversible or involves the intentional cutting of soft or hard tissue by any means.

SECTION 3. Section 262.152, Occupations Code, is amended to read as follows:

Sec. 262.152. PERFORMANCE OF DELEGATED DUTIES. Except as provided by Section 262.153, a [A] dental hygienist shall practice dental hygiene:

(1) in the dental office of a supervising dentist licensed by the board; or

(2) in an alternate setting, including a nursing home, the patient's home, a school, a hospital, a state institution, a public health clinic, or another institution, under the supervision of a supervising dentist.

SECTION 4. Subchapter D, Chapter 262, Occupations Code, is amended by adding Section 262.153 to read as follows:

Sec. 262.153. LIMITED PRESCRIPTION PERMIT. (a) The board by rule shall provide for issuance of a permit to a dental hygienist to prescribe and administer fluoride varnish.

(b) To obtain a permit under this section, a dental hygienist must meet the educational qualifications and provide proof of competency in the administration of fluoride varnish as required by the board after consultation with the advisory committee.

(c) Rules adopted by the board under this section must include rules that regulate the administration of fluoride varnish by a dental hygienist who holds a permit under this section.

(d) A dental hygienist with a permit issued under this section may prescribe and administer fluoride varnish without supervision by a dentist.

SECTION 5. The State Board of Dental Examiners shall adopt rules as required by Section 262.153, Occupations Code, as added by this Act, not later than November 1, 2005.

SECTION 6. This Act takes effect September 1, 2005.

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