



# Ohio Legislative Service Commission

## Bill Analysis

Matthew Magner

### H.B. 463

130th General Assembly  
(As Introduced)

**Reps.** Johnson, Duffey, Roegner, Scherer, Milkovich, Blessing, Schuring, Bishoff, Young, Hackett, Stinziano, Smith, Stebelton, Rosenberger, R. Adams, Grossman, Celebrezze, Sears, Barnes, Hill, Amstutz, Perales, Terhar, Thompson, Retherford, Lundy, Barborak

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## BILL SUMMARY

- Permits applicants for a license to practice dentistry to fulfill one of the licensing requirements by completing an approved dental residency program.
- Increases the portion of each licensing fee paid by dentists that is designated for the Dentist Loan Repayment Fund.
- Revises the limits on a dental hygienist's scope of practice while a supervising dentist is not physically present.
- Increases the number of dental hygienists who may practice under the supervision of the same dentist.
- Allows dental hygienists to use a personal check to pay for a permit to participate in the Oral Health Access Supervision Program (OHASP).
- Removes a provision that limits which dentist to whom a dental hygienist must refer a patient as part of the OHASP.
- Specifies circumstances under which dental assistants and expanded function dental auxiliaries may practice while a supervising dentist is not present.
- Specifies additional procedures that are included in an expanded function dental auxiliary's scope of practice.
- Establishes a temporary volunteer's certificate that authorizes a dentist or dental hygienist not licensed in Ohio to provide free dental services in Ohio for seven days.

- Includes higher education programs that recruit students in the field of dentistry to the list of programs that are eligible for awards under the Ohio Innovation Partnership.
- Creates the Medicaid Payment Rates for Dental Services Workgroup to study the issue of Medicaid payment rates for dental services.
- Requires the Development Services Agency to enter into a contract with JobsOhio to provide no-interest loans for the purchase of dental equipment to be used for the treatment of underserved populations.

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## **CONTENT AND OPERATION**

### **Application for a license to practice dentistry**

#### **Dental residency program**

The bill permits an applicant for a license to practice dentistry to fulfill one of the license eligibility requirements by completing a dental residency program. Under current law, an applicant must, in addition to other requirements, fulfill any one of the following requirements:

(1) Receive a passing score on each component of an examination administered by a regional testing agency;

(2) Receive a passing score on an examination administered by the State Dental Board;

(3) Possess a dental license in good standing from another state and have practiced dentistry in another state or for the federal government for five years immediately preceding the application.<sup>1</sup>

The bill expands this list to include the completion of a dental residency program that has been accredited or approved by the Commission on Dental Accreditation and is administered by an accredited dental college or hospital.<sup>2</sup>

#### **Payment to the Dentist Loan Repayment Fund**

Under current law, a portion of the funds collected from the fees paid for a license to practice dentistry, a general anesthesia permit, or a conscious intravenous

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<sup>1</sup> R.C. 4715.10(D).

<sup>2</sup> R.C. 4715.10(D)(4).

sedation permit is paid to the Dentist Loan Repayment Fund.<sup>3</sup> The bill increases that portion to \$40 (from \$20) of the fees collected in even-numbered years and \$20 (from \$10) of the fees collected in odd-numbered years. The bill, however, does not increase the total amount of the fee to be paid for the license or the permits.

## **Dental Hygienists**

### **Supervision by licensed dentist**

The bill revises the provision of law that limits the number of dental hygienists who may practice under the supervision of the same dentist. Under continuing law, a dental hygienist must practice under the supervision and full responsibility of a licensed dentist, and current law prohibits more than three dental hygienists from practicing under the supervision of the same dentist.<sup>4</sup> The bill increases that limit so that no more than four dental hygienists are permitted to practice under the supervision of the same dentist.

The bill also revises laws governing the practice of a dental hygienist when the supervising dentist is not physically present. Under current law, except as part of a dental hygiene program approved by the State Dental Board, a dental hygienist may not provide dental hygiene services to a patient when the supervising dentist is not physically present unless the supervising dentist has examined the patient within the preceding seven months.<sup>5</sup> The bill increases that time period from seven months to one year.

Additionally, under current law, the State Dental Board is required to adopt rules identifying procedures that a dental hygienist may not perform when practicing in the absence of the supervising dentist.<sup>6</sup> The bill prohibits the Board from identifying the re-cementation of temporary crowns as one of those procedures.

### **Oral Health Access Supervision Program**

The Oral Health Access Supervision Program (OHASP) allows dentists to authorize dental hygienists to perform dental hygiene services in the absence of a dentist, as long as certain conditions are met.<sup>7</sup> To participate in the program, a dentist or

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<sup>3</sup> R.C. 4715.13.

<sup>4</sup> R.C. 4715.23.

<sup>5</sup> R.C. 4715.22(C)(6).

<sup>6</sup> R.C. 4715.22(F).

<sup>7</sup> R.C. 4715.365.



a dental hygienist must obtain an OHASP permit. The bill specifies that payment for the permit may be made by personal check.<sup>8</sup>

Current law requires the State Dental Board to publish an online directory containing the names and contact information of the dentists and dental hygienists who hold valid OHASP permits.<sup>9</sup> The bill requires the Board to include in the directory the electronic mail addresses of those dentists and dental hygienists.

After dental hygiene services are completed under OHASP, current law requires the dental hygienist to direct the patient to a dentist for a clinical evaluation and to schedule or cause to be scheduled an appointment for the patient with the dentist.<sup>10</sup> The dentist to whom the patient is directed must be the same dentist who authorized the performance of the dental hygiene services, and the dental hygienist must make every attempt to schedule the patient's appointment not later than 90 days after the completion of the dental hygiene services.<sup>11</sup> The bill instead requires the dental hygienist to direct the patient to any dentist and requires the appointment to be scheduled not later than six months after the completion of the services.

## **Dental assistants and expanded function dental auxiliaries**

### **Services provided in the absence of a supervising dentist**

Both dental assistants and expanded function dental auxiliaries (EFDAs) must practice under the supervision of a licensed dentist.<sup>12</sup> The bill permits dental assistants who are certified by the Dental Assisting National Board or the Ohio Commission on Dental Assistant Certification and EFDAs to provide certain services for not more than 15 consecutive business days in the absence of the supervising dentist if the following conditions are met:

(1) The dental assistant or EFDA has at least two years and a minimum of 3,000 hours of experience.

(2) The dental assistant or EFDA has completed an approved course in the identification and prevention of potential medical emergencies.

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<sup>8</sup> R.C. 4715.363(A).

<sup>9</sup> R.C. 4715.371.

<sup>10</sup> R.C. 4715.366(A)(2).

<sup>11</sup> R.C. 4715.366(B).

<sup>12</sup> R.C. 4715.39(E) and 4715.64(B).



(3) The dental assistant or EFDA complies with written protocols that the supervising dentist establishes for emergencies.

(4) The supervising dentist has evaluated the dental assistant's or EFDA's skills.

(5) The supervising dentist examined the patient not more than one year prior to the date of the services.

(6) The dental assistant or EFDA complies with written protocols or written standing orders that the supervising dentist establishes.

(7) The supervising dentist completed and evaluated a medical and dental history of the patient not more than one year prior to the date of the services, and, except when the services are provided in a health care facility, the supervising dentist determines that the patient is in a medically stable condition.

(8) If the services are provided in a health care facility, a licensed physician or a licensed registered nurse is present in the health care facility when the services are provided.

(9) In advance of the appointment for services, the patient is notified that the supervising dentist will be absent from the location and that the dental assistant or EFDA cannot diagnose the patient's health care status.

(10) The dental assistant or EFDA is employed by, or under contract with, the supervising dentist, a licensed dentist, or a government entity that employs the dental assistant or EFDA to provide services in a public school or in connection with other programs the government entity administers.<sup>13</sup>

The bill also enumerates those services that a dental assistant or an EFDA may provide in the absence of the supervising dentist when the above conditions are met. Those services are the re-cementation of temporary crowns; the application of topical fluoride, fluoride varnish, disclosing solutions, and desensitizing agents; caries susceptibility testing; the demonstration of oral hygiene procedures; and the discussion of proper nutrition.<sup>14</sup>

The bill further permits dental assistants and EFDAs to apply pit and fissure sealants prior to a dentist examining a patient and when the supervising dentist is not physically present if the following conditions are met:

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<sup>13</sup> R.C. 4715.39(D)(1) and 4715.64(C).

<sup>14</sup> R.C. 4715.39(D)(2) and 4715.64(C).

(1) The dental assistant or EFDA has at least two years and a minimum of 3,000 hours of experience.

(2) The dental assistant or EFDA has completed an approved course in the identification and prevention of potential medical emergencies.

(3) The services are provided as part of a program operated through a local board of education or the governing board of an educational service center, a local board of health or the authority having the duties of a board of health, a dental association, or any other entity recognized by the State Dental Board.

(4) The program includes a supervising dentist who is employed by or a volunteer for, and the patients are referred by, the entity that is operating the program and the dentist is available for consultation by telephone or other means of electronic communication.

(5) Pit and fissure sealants are applied only to erupted permanent posterior teeth and there is no suspicion that a cavity exists.

(6) If the patient is a minor, a parent or other person who is responsible for the patient is notified that a dentist will not be present.<sup>15</sup>

### **EFDA's scope of practice**

The bill expands the scope of an EFDA's practice to include those procedures that may be performed in the absence of the supervising dentist.<sup>16</sup> Under current law, an EFDA's practice includes only those procedures involved in the placement of certain restorative materials and additional procedures authorized by the State Dental Board.

### **Temporary volunteer's certificate**

The bill requires the State Dental Board to issue temporary volunteer's certificates to qualified applicants. The certificate permits dentists and dental hygienists not licensed in Ohio to provide dental services in Ohio on a voluntary basis.<sup>17</sup> The certificate is to be valid for seven days and may be renewed. The bill permits the Board to charge no more than \$25 for issuing or renewing the certificate.<sup>18</sup>

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<sup>15</sup> R.C. 4715.39(D)(3) and 4715.64(D)(3).

<sup>16</sup> R.C. 4715.64(A).

<sup>17</sup> R.C. 4715.421(B).

<sup>18</sup> R.C. 4715.421(E)(2).



The bill specifies that a certificate holder may not perform any operation, except in the case of a dental emergency, and may not accept any form of remuneration for providing dental services in Ohio.<sup>19</sup> It further specifies that a certificate holder is covered by the qualified immunity that applies to volunteer health care professionals who provide services to indigent and uninsured individuals.<sup>20</sup>

To obtain a certificate, the bill requires an applicant to provide a copy of the applicant's degree from a dental college or dental hygiene school and establish that the applicant either (1) holds a valid license to practice dentistry or dental hygiene in any United States jurisdiction or (2) is practicing dentistry or dental hygiene in a branch of the United States armed services.<sup>21</sup> The Board is required to issue a wallet certificate to each qualified applicant, and the applicant must keep the wallet certificate on the applicant's person while providing dental services.<sup>22</sup>

If the Board determines that a certificate holder has violated Ohio laws pertaining to the practices of dentistry or dental hygiene, the bill authorizes the Board to revoke the certificate.<sup>23</sup> The bill specifies that a certificate cannot be renewed if it was previously revoked.

The bill requires the Board to maintain a register of certificate holders<sup>24</sup> and, within 90 days of the bill's effective date, to make the application form and instructions available on its website.<sup>25</sup> The bill authorizes the Board to adopt rules to administer the certificate program.<sup>26</sup>

## **Ohio Innovation Partnership**

The bill includes state university and college programs that recruit students and scientists in the field of dentistry to the list of programs that are eligible for awards from the Ohio Innovation Partnership (OIP).<sup>27</sup> Under current law, state universities and

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<sup>19</sup> R.C. 4715.421(D).

<sup>20</sup> R.C. 4715.421(E)(3); see also R.C. 2305.234, not in the bill.

<sup>21</sup> R.C. 4715.421(C).

<sup>22</sup> R.C. 4715.421(E)(2).

<sup>23</sup> R.C. 4715.421(D).

<sup>24</sup> R.C. 4715.421(E)(1).

<sup>25</sup> R.C. 4715.421(G).

<sup>26</sup> R.C. 4715.421(F).

<sup>27</sup> R.C. 3333.61.

colleges are eligible for awards from OIP for programs and initiatives that recruit students and scientists in the fields of science, technology, engineering, mathematics, and medicine. As part of OIP, the Choose Ohio First Scholarship Program (COFSP) awards scholarships to eligible students in one of these fields as a grant to the state university that the student is attending. The bill makes students in the field of dentistry eligible for a COFSP grant.

### **Medicaid Payment Rates for Dental Services Workgroup**

The bill creates the Medicaid Payment Rates for Dental Services Workgroup to study the issue of Medicaid payment rates for dental services. By December 31, 2014, the Workgroup is required to submit a report that includes recommendations regarding Medicaid payment rates for dental services. The Workgroup ceases to exist upon the submission of its report to the Governor and the General Assembly.<sup>28</sup>

The bill specifies that the Workgroup is to consist of the following:

- (1) Either the Medicaid Director or the Director's designee;
- (2) Either the Director of Health or the Director's designee;
- (3) A member of the Senate from the majority party appointed by the President of the Senate;
- (4) A member of the Senate from the minority party appointed by the President of the Senate;
- (5) A member of the House of Representatives from the majority party appointed by the Speaker of the House;
- (6) A member of the House of Representatives from the minority party appointed by the Speaker of the House;
- (7) Four dentists who have valid Medicaid provider agreements and practice in different geographic areas of Ohio, appointed by the executive director of the Ohio Dental Association.<sup>29</sup>

The members of the Workgroup are to be appointed within 30 days of the bill's effective date.<sup>30</sup> The bill states that the members are neither to be paid for their services,

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<sup>28</sup> Section 3(E).

<sup>29</sup> Section 3(A).

<sup>30</sup> Section 3(B).

except to the extent that those services are a part of their regular employment duties, nor reimbursed for the expenses incurred in serving on the Workgroup.

The Medicaid Director or the Director's designee is to serve as the Workgroup's chairperson, and the Workgroup is to meet at the call of the chairperson.<sup>31</sup> Staff and other support services are to be provided by the Department of Medicaid.<sup>32</sup>

### **Loans for the purchase of dental equipment**

The bill requires the Development Services Agency (DSA) to enter into a contract with JobsOhio, under which JobsOhio is to use \$250,000 to provide no-interest loans for the purchase of dental equipment to be used in dental health resource shortage areas designated by the Director of Health. DSA is required to enter into the contract by July 1, 2015, and the loan payments are to be made during the fiscal year that ends on June 30, 2016.<sup>33</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	02-27-14

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<sup>31</sup> Section 3(C).

<sup>32</sup> Section 3(D).

<sup>33</sup> Section 4; see also R.C. 3702.87, not in the bill.

