

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Health Care Committee

BILL: SB 2178

INTRODUCER: Senator Atwater

SUBJECT: Dental Hygienists

DATE: March 18, 2006

REVISED: 03/22/06

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Munroe</u>	<u>Wilson</u>	<u>HE</u>	<u>Fav/3 amendments</u>
2.	<u></u>	<u></u>	<u>BI</u>	<u></u>
3.	<u></u>	<u></u>	<u></u>	<u></u>
4.	<u></u>	<u></u>	<u></u>	<u></u>
5.	<u></u>	<u></u>	<u></u>	<u></u>
6.	<u></u>	<u></u>	<u></u>	<u></u>

## Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

### I. Summary:

The bill authorizes a dental hygienist, without supervision, to complete dental charting of hard and soft tissues in certain practice settings and under specified circumstances. A dental hygienist may complete dental charting only within his or her duties as authorized by law. "Dental charting" is defined to mean the recording of visual observations of clinical conditions of the oral cavity without the use of X-rays, laboratory tests, or other diagnostic methods or equipment, except the instruments necessary to record visual restorations, missing teeth, suspicious areas, and periodontal pockets. The performance of dental charting without supervision does not create a "patient of record" with respect to the dental hygienist performing the procedure.

The bill requires each person or the parent or legal guardian of that person who receives a dental charting to receive and acknowledge a written disclosure in advance of the charting, which states that the purpose of the dental charting is to collect data for use by a dentist at a prompt subsequent examination. The Board of Dentistry must approve the content of the charting and disclosure forms to be used by a dental hygienist. Both forms must emphasize the inherent limitations of a dental charting exercise, encourage complete examination by a dentist in rendering a professional diagnosis of the patient's overall oral health needs, and state that dental charting should not be substituted for a comprehensive dental examination.

The bill does not authorize direct reimbursement for dental charting by Medicaid, health insurers, health maintenance organizations, prepaid dental plans, or other third-party payors beyond what is otherwise allowed by law.

This bill creates section 466.0241, Florida Statutes.

## **II. Present Situation:**

The Board of Dentistry, established under chapter 466, F.S., has regulatory jurisdiction over the practice of dentistry. Dental hygienists may perform their duties upon a patient of record of a dentist who has issued a prescription for the services of a dental hygienist. "Patient of record" means a patient, upon whom a dentist has taken a complete medical history, completed a clinical examination, recorded any pathological conditions, and prepared a treatment plan. A dentist's prescription for the services of a dental hygienist is valid for 2 years unless the dentist designates a shorter duration.<sup>1</sup> Dental hygienists provide their services in licensed public and private health facilities, other public institutions of the state and federal government, public and private educational institutions, the home of a nonambulatory patient, and other places in accordance with the rules of the board. The dentist who issues the prescription for the services of a dental hygienist remains responsible for the care of the patient.

Dental hygienists provide direct patient care services including oral inspection, prophylaxis (cleaning and polishing the tooth surface), removing calculus, performing root planing and curettage, exposing X-rays and applying topical preventive agents to teeth, and providing patient education in oral hygiene and diet practices as they relate to dental health, acting under the supervision of a dentist. Dental hygienists may, without supervision, provide educational programs, faculty or staff training programs, authorized fluoride rinse programs, and other services which do not involve diagnosis or treatment of dental conditions and which services are approved by rule of the Board of Dentistry.

The Board of Dentistry is authorized to adopt rules to implement the provisions of the dental practice act and chapter 456, F.S., relating to the general regulatory provisions for health care professions.

## **III. Effect of Proposed Changes:**

The bill authorizes a dental hygienist, without supervision, to complete dental charting of hard and soft tissues in public and private educational institutions of the state and federal government, nursing homes, assisted living facilities, community health centers, and mobile dental or health units. Dental charting may be performed on a volunteer basis at health fairs. A dental hygienist may complete dental charting only within his or her duties as authorized by law. "Dental charting" is defined to mean the recording of visual observations of clinical conditions of the oral cavity without the use of X-rays, laboratory tests, or other diagnostic methods or equipment, except the instruments necessary to record visual restorations, missing teeth, suspicious areas, and periodontal pockets.

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<sup>1</sup> See s. 466.023, F.S.

The bill requires each person or the parent or legal guardian of that person who receives a dental charting to receive and acknowledge a written disclosure in advance of the charting, which states that the purpose of the dental charting is to collect data for use by a dentist at a prompt subsequent examination. The bill specifies that the disclosure form must emphasize that diagnosis of caries, soft-tissue disease, oral cancer, temporomandibular joint syndrome, and dento-facial malocclusions can only be completed by a dentist within the context of delivering a comprehensive dental examination. The Board of Dentistry must approve the content of the charting and disclosure forms to be used by a dental hygienist. Both forms must emphasize the inherent limitations of a dental charting exercise, encourage complete examination by a dentist in rendering a professional diagnosis of the patient's overall oral health needs, and state that dental charting should not be substituted for a comprehensive dental examination. When a periodontal probe is used, medical clearance by a physician or dentist is required.

The bill does not authorize direct reimbursement for dental charting by Medicaid, health insurers, health maintenance organizations, prepaid dental plans, or other third-party payors beyond what is otherwise allowed by law. Any referral made in conjunction with providing dental charting services must comply with federal and state laws governing patient referral, kickbacks, and patient brokering.<sup>2</sup> The performance of dental charting without supervision does not create a "patient of record" with respect to the dental hygienist performing the procedure.

The effective date of the bill is July 1, 2006.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Art. VII, s. 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

##### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Art. III, Subsection 19(f) of the Florida Constitution.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

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<sup>2</sup> See for example, s. 456.052, F.S., which relates to financial disclosures by health care practitioners to patients regarding an investment interest; s. 456.053, F.S., which relates to financial arrangements between referring health care providers; s. 456.054, F.S., which relates to prohibited kickbacks between health care providers; and s. 817.505, F.S., which relates to prohibitions on patient brokering.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Department of Health will incur costs associated with the Board of Dentistry's rulemaking to approve the content of the dental charting and disclosure forms to be used by dental hygienists when they perform dental charting. Such costs should be minimal.

**VI. Technical Deficiencies:**

On page 2, line 15 of the bill, the spelling of the term; "X-ray" should be corrected.

On page 2, lines 25-27, the bill requires medical clearance by a physician or dentist when a periodontal probe is used. The bill should clarify that the probe is being used by a dental hygienist when completing dental charting.

On page 2, line 30 of the bill, the spelling of the term; "third-party payor" should be corrected.

**VII. Related Issues:**

None.

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## VIII. Summary of Amendments:

**Barcode 580746 by Health Care:**

Technical – corrects the spelling of “X-ray”.

**Barcode 690464 by Health Care:**

Clarifies that a periodontal probe is being used by a dental hygienist when completing dental charting.

**Barcode 885422 by Health Care:**

Technical – corrects the spelling of “third party payors”.

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This Senate staff analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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