

SB0237S01 compared with SB0237

~~{deleted text}~~ shows text that was in SB0237 but was deleted in SB0237S01.

inserted text shows text that was not in SB0237 but was inserted into SB0237S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Michael K. McKell proposes the following substitute bill:

DENTAL HYGIENIST AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This bill amends provisions related to the practice of dental hygiene.

Highlighted Provisions:

This bill:

▶ ~~{amends definitions;~~

→ ~~amends provisions related to}~~ authorizes the practice of dental hygiene ~~{outside a dentist's office, including }~~ in a public health setting~~;~~

→ ~~amends telehealth services provisions; and~~

→ ~~makes technical changes}~~ without general supervision and without a collaborative practice agreement with a dentist under certain conditions.

Money Appropriated in this Bill:

None

SB0237S01 compared with SB0237

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~{ 58-69-102, as last amended by Laws of Utah 2020, Chapter 273~~

~~58-69-301, as last amended by Laws of Utah 2020, Chapter 273~~

~~58-69-501, as last amended by Laws of Utah 2015, Chapter 343~~

~~{ 58-69-801, as last amended by Laws of Utah 2016, Chapter 348~~

~~{ 58-69-802, as last amended by Laws of Utah 2020, Chapter 273~~

~~58-69-803, as enacted by Laws of Utah 1996, Chapter 116~~

~~58-69-807, as enacted by Laws of Utah 2020, Chapter 273~~

~~}~~

Be it enacted by the Legislature of the state of Utah:

Section 1. Section ~~{58-69-102}~~ 58-69-801 is amended to read:

~~{58-69-102. Definitions:~~

~~— In addition to the definitions in Section 58-1-102, as used in this chapter:~~

~~— [(1) "Asynchronous technology" means store-and-forward technology that allows a licensed dental professional to transmit a patient's health information to a dentist for viewing at a later time.]~~

~~— [(2)] (1) "Board" means the Dentist and Dental Hygienist Licensing Board created in Section 58-69-201.~~

~~— [(3)] (2) "Dental assistant" means an [unlicensed] individual who [engages in, directly or indirectly, supervised acts and duties as defined by division rule] is not licensed under this chapter and acts:~~

~~— (a) under at least general supervision of a supervising dentist; and~~

~~— (b) in accordance with rules made by the division in collaboration with the board.~~

~~— [(4) "Direct supervision" means the supervising dentist is present and available for face-to-face communication with the person being supervised when and where professional services are being provided.]~~

~~— [(5)] (3) "General supervision" means [that the] supervision by a supervising dentist who is available [for consultation] to communicate with the individual being supervised~~

SB0237S01 compared with SB0237

regarding work the supervising dentist has authorized the individual to perform, [without regard as to whether] regardless of where the supervising dentist is located [on the same premises as the person being supervised].

——— [(6)] (4) "Indirect supervision" means [that the] supervision by a supervising dentist who is:

——— (a) physically present within the same facility [in which the person] as the individual being supervised [is providing services and is]; and

——— (b) immediately available to [provide immediate] to communicate face-to-face [communication] and in person with the [person] individual being supervised.

——— (5) "Local health department" means the same as that term is defined in Section 26A-1-102.

——— [(7)] (6) "Practice of dental hygiene" means, [regarding] with respect to humans and subject to Section 58-69-801.

——— [(a) under the general supervision of a dentist, or under a written agreement with a dentist] 58-69-801. Dental hygienist -- Limitations on practice.

A dental hygienist licensed under this chapter {, as provided in Section 58-69-801, to:}

——— [(i)] (a) [perform] performing a preliminary clinical examination of [human] teeth and gums;

——— [(ii)] (b) [make] making preliminary instrumental examination of [patients'] a patient's teeth;

——— [(iii)] (c) [expose] exposing dental radiographs;

——— [(iv)] (d) [assess] assessing dental hygiene status [and collaborate];

——— (e) collaborating with [the] a supervising dentist regarding a dental hygiene treatment plan for a patient;

——— [(v)] (f) [remove] removing deposits, accumulations, calculus, and concretions from the surfaces of [human] teeth;

——— [(vi)] (g) [remove] removing toxins and debris from subgingival surfaces;

——— [(vii)] (h) [provide] providing dental hygiene care in accordance with a dentist's treatment plan for a patient;

——— [(viii)] (i) [take] taking impressions of teeth or jaws except for impressions or registrations to supply artificial teeth as substitutes for natural teeth; [or]

SB0237S01 compared with SB0237

- ~~— (ix) engage in other practices of dental hygiene as defined by division rule;~~
- ~~— (j) gathering diagnostic information from a patient in person for use by a dentist at a remote location who is engaging in teledentistry with the patient, including information the dentist may use:~~
- ~~— (i) to form a tentative basic treatment plan for the patient; and~~
- ~~— (ii) as the basis for issuing a prescription for appropriate preventive or urgent care;~~
- ~~— (k) providing oral health education;~~
- ~~— (l) performing any of the following, as defined by division rule:~~
- ~~— (i) palliative dental care;~~
- ~~— (ii) interim dental care; and~~
- ~~— (iii) dental care to arrest dental caries, including:~~
- ~~— (A) application of silver diamond fluoride; and~~
- ~~— (B) use of glass ionomer cement in conjunction with silver diamond fluoride when performing the Silver Modified Atraumatic Restorative Technique;~~
- ~~— (b) (m) [under the indirect supervision of a dentist to administer] administering in accordance with standards and ethics of the professions of dentistry and} may only practice dental hygiene:~~
- ~~— (i) a local [anesthesia] anesthetic; or~~
- ~~— (ii) nitrous oxide [analgesia];~~
- ~~— (c) (n) [to represent] representing oneself by any title, degree, or in any other way as being a dental hygienist; [or]~~
- ~~— (d) (o) [to direct] directing a dental assistant when the supervising dentist is not on the premises; or~~
- ~~— (p) engaging in other practices of dental hygiene as defined by division rule.~~
- ~~— [(8)] (7) "Practice of dentistry" means the following, regarding humans:~~
- ~~— (a) to offer, undertake, or represent that a person will undertake by any means or method[, including teledentistry,] to:~~
- ~~— (i) examine, evaluate, diagnose, treat, operate, or prescribe therapy for any disease, pain, injury, deficiency, deformity, or any other condition of the human teeth, alveolar process, gums, jaws, or adjacent hard and soft tissues and structures in the maxillofacial region;~~
- ~~— (ii) take an appropriate history and physical consistent with the level of professional~~

SB0237S01 compared with SB0237

~~service to be provided and the available resources in the facility in which the service is to be provided;~~

~~—— (iii) take impressions or registrations;~~

~~—— (iv) supply artificial teeth as substitutes for natural teeth;~~

~~—— (v) remove deposits, accumulations, calculus, and concretions from the surfaces of teeth; and~~

~~—— (vi) correct or attempt to correct malposition of teeth;~~

~~—— (b) to administer anesthetics necessary or proper in the practice of dentistry only as allowed by an [anesthesia] anesthetics permit obtained from the division;~~

~~—— (c) to administer and prescribe drugs related to and appropriate in the practice of dentistry;~~

~~—— (d) to supervise the practice of a:~~

~~—— (i) dental hygienist in accordance with Subsection 58-69-801(1)(b); or~~

~~—— (ii) dental assistant as established by division rule made in collaboration with the board; or~~

~~—— (e) to represent oneself by any title, degree, or in any other way that one is a dentist.~~

~~—— [(9)] (8) "Public health setting" means:~~

~~—— (a) an individual's residence, if the individual is unable to leave the residence;~~

~~—— (b) a school, as part of a school-based program;~~

~~—— (c) a nursing home;~~

~~—— (d) an assisted living or long-term care facility;~~

~~—— (e) a community health center;~~

~~—— (f) a federally-qualified health center; [or]~~

~~—— (g) a health care facility operated by a local health department or the Department of Health and Human Services; or~~

~~—— [(g)] (h) a mobile dental health program that employs a dentist who is licensed under this chapter.~~

~~—— [(10)] (9) "Supervising dentist" means a licensed dentist who has agreed to provide general or indirect supervision of a dental hygienist or [unlicensed individual in accordance with the provisions of this chapter] dental assistant.~~

~~—— [(11)] "Synchronous technology" means two-way audiovisual technology that allows a~~

SB0237S01 compared with SB0237

~~licensed dental professional to see and communicate in real time with a patient who is located in a different physical location.]~~

~~—— [(12) "Teledentistry" means the practice of dentistry using synchronous or asynchronous technology.]~~

~~—— [(13)] (10) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-69-501.~~

~~—— [(14)] (11) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-69-502 and as may be further defined by rule.~~

~~—— Section 2. Section 58-69-301 is amended to read:~~

~~—— **58-69-301. License required -- License classifications -- Anesthetic and analgesic permits:**~~

~~—— (1) A license is required to engage in the practice of dentistry[, including teledentistry,] or dental hygiene, except as specifically provided in Section 58-69-306 or 58-1-307.~~

~~—— (2) The division shall issue to individuals qualified under the provisions of this chapter a license in the classification:~~

~~—— (a) dentist; or~~

~~—— (b) dental hygienist.~~

~~—— (3) A permit is required to engage in administration of [anesthesia or analgesia] an anesthetic or analgesic in the practice of dentistry or dental hygiene:~~

~~—— (4) The division in collaboration with the board shall establish by rule:~~

~~—— (a) the classifications of [anesthesia and analgesia] anesthetic and analgesic permits and the scope of practice permitted under each permit; and~~

~~—— (b) the qualifications for each classification of [anesthesia and analgesia] anesthetic and analgesic permit:~~

~~—— Section 3. Section 58-69-501 is amended to read:~~

~~—— **58-69-501. Unlawful conduct.**~~

~~—— "Unlawful conduct" includes, in addition to the definition in Section 58-1-501:~~

~~—— (1) administering [anesthesia or analgesia] an anesthetic or analgesic in the practice of dentistry or dental hygiene if the individual does not hold a current permit issued by the division authorizing that individual to administer the type of [anesthesia or analgesia] anesthetic or analgesic used;~~

SB0237S01 compared with SB0237

~~_____ (2) practice of dental hygiene by a licensed dental hygienist when not under the general or indirect supervision of a dentist, [or under a written agreement with a dentist who is licensed under this chapter and who is a Utah resident, in accordance with the provisions of this chapter] in accordance with Section 58-69-801; or~~

~~_____ (3) directing or interfering with a licensed dentist's judgment and competent practice of dentistry.~~

~~_____ Section 4. Section 58-69-801 is amended to read:~~

~~_____ **58-69-801. Dental hygienist -- Practice settings -- Supervision -- Practice restrictions -- Collaborative practice agreement not required:**~~

~~_____ (1) [A dental hygienist] An individual licensed under this chapter as a dental hygienist may [only] engage in the practice of dental hygiene only:~~

~~_____ ~~{}~~(1) in an accredited dental or dental hygienist school to teach and demonstrate the practice of dental hygiene; ~~{}~~~~

~~~~{}~~(2) for a public health agency; ~~{}~~~~

~~~~{}~~(3) under the supervision of a dentist, for an employee leasing company or temporary personnel service company providing employees to a dentist or other person lawfully providing dental services; ~~{}~~~~

~~~~{}~~(a) under the indirect supervision of a dentist licensed under this chapter at any time the dental hygienist is administering an anesthetic or analgesia as permitted under this chapter or division rules made under this chapter; ~~{}~~~~

~~~~{}~~(b) under the general supervision of a dentist licensed under this chapter within the office of the supervising dentist and upon patients of record of the supervising dentist; and ~~{}~~~~

~~~~{}~~(c) under the general supervision of a dentist licensed under this chapter, and the practice is conducted outside of the office of the supervising dentist, if: ~~{}~~~~

~~~~{}~~(i) the dental hygiene work performed is authorized by the supervising dentist as a part of and in accordance with the supervising dentist's current treatment plan for the patient; ~~{}~~~~

~~~~{}~~(ii) no anesthetic or analgesia is used; ~~{}~~~~

~~~~{}~~(iii) the supervising dentist has determined the patient's general health and oral health are so that the dental hygiene work can be performed under general supervision and with an acceptable level of risk or injury as determined by the supervising dentist; ~~{}~~~~

SB0237S01 compared with SB0237

~~§§~~(iv) the supervising dentist accepts responsibility for the dental hygiene work performed under general supervision; and ~~§§~~

~~§§~~(v) (A) the dental hygienist's work is performed on a patient who is homebound or within a hospital, nursing home, or public health agency or institution; and ~~§§~~

~~§§~~(B) the patient is the supervising dentist's patient of record and the dentist has examined the patient within six months prior to the patient's receiving treatment from a dental hygienist under this Subsection (3); ~~or~~

~~§§~~(4) under a written agreement with a dentist who is licensed under this chapter and who is a Utah resident if: ~~§§~~

~~§§~~(a) the dental hygienist practices in a public health setting; ~~§§~~

~~§§~~(b) the dentist is available in person, by phone, or by electronic communication; ~~§§~~

~~§§~~(c) the agreement provides that the dental hygienist shall refer a patient with a dental need beyond the dental hygienist's scope of practice to a licensed dentist; and ~~§§~~

~~§§~~(d) the dental hygienist obtains from each patient an informed consent form that provides that treatment by a dental hygienist is not a substitute for a dental examination by a dentist ~~[-]~~ ~~§§~~

~~_____~~ ~~(a) (i) in the following settings:~~

~~_____~~ ~~(A) in the office of a dentist;~~

~~_____~~ ~~(B) in a public health setting;~~

~~_____~~ ~~(C) in a hospital; or~~

~~_____~~ ~~(D) in an accredited dental or dental hygienist school, but only to teach and demonstrate the practice of dental hygiene;~~

~~_____~~ ~~(b) subject to the following supervision requirements:~~

~~_____~~ ~~(i) if in the office of a dentist, under the dentist's general supervision;~~

~~_____~~ ~~(ii) if in a public health setting, under or~~

~~_____~~ ~~(5) notwithstanding any other provision of this chapter, without general supervision only if the individual so elects;~~

~~_____~~ ~~(iii) if in a hospital, under general supervision;~~

~~_____~~ ~~(iv) if in an accredited dental or dental hygienist school, under general supervision; and~~

~~_____~~ ~~(v) if administering an anesthetic or analgesic, under indirect supervision; and~~

~~_____~~ ~~(c) subject to the following restrictions:~~

SB0237S01 compared with SB0237

- ~~—— (i) if in the office of a dentist, only with the dentist's patients of record;~~
- ~~—— (ii) if in a public health setting, the individual obtains from the patient written confirmation that the individual has informed the patient that treatment by a dental hygienist is not a substitute for a dental examination by a dentist;~~
- ~~—— (iii) if in a hospital, only if:~~
 - ~~—— (A) the patient is a patient of record of the supervising dentist;~~
 - ~~—— (B) the supervising dentist has examined the patient within the past six months;~~
 - ~~—— (C) the supervising dentist determines that the patient's general health and oral health are such that the dental hygiene work can be performed with an acceptable level of risk of injury to the patient, as determined by the supervising dentist;~~
 - ~~—— (D) as a part of and in accordance with the supervising dentist's current treatment plan for the patient; and~~
 - ~~—— (E) authorized by the supervising dentist; and~~
- ~~—— (iv) if administering an anesthetic or analgesic, only in the office of the dentist providing indirect supervision.~~
- ~~—— (2) An individual licensed under this chapter as a dental hygienist is not required to enter into}and without a collaborative practice agreement with a dentist {to}if:~~
 - ~~(a) the dental hygienist engages in the practice of dental hygiene in a public health setting;~~
 - ~~(b) prior to engaging in the practice of dental hygiene in a public health setting, the dental hygienist notifies the division on a one-time basis in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that the dental hygienist will engage in the practice of dental hygiene{.~~
- ~~—— Section 5. Section 58-69-802 is amended to read:~~
- ~~—— 58-69-802. Practice within limits of law and competency:~~
 - ~~—— [(1) Each individual] A dentist or dental hygienist licensed under this chapter shall confine [his] the dentist's or dental hygienist's practice to those acts [or practices]:~~
 - ~~—— [(a)] (1) permitted by law; and~~
 - ~~—— [(b)] (2) in which the [individual] dentist or dental hygienist is competent by education, training, and experience.~~
 - ~~—— [(2) (a) The standard of dental care a licensed dental professional provides through~~

SB0237S01 compared with SB0237

~~teledentistry is the same as the standard of dental care a licensed dental professional provides in a traditional physical setting.]~~

~~—— [(b) (i) A treating dentist may use teledentistry to collaborate with a dental hygienist within the relevant applicable scopes of practice and under the appropriate level of dentist supervision, in accordance with existing supervision laws.]~~

~~—— [(ii) A dental hygienist, other dental auxiliary, or any other teledentistry provider may not carry out any duties through teledentistry that require the in-person supervision of a dentist licensed under this chapter.]~~

~~—— [(c) A dentist may not conduct a dental examination using teledentistry if the standard of care necessitates a traditional physical dental examination.]~~

~~—— Section 6. Section 58-69-803 is amended to read:~~

~~—— **58-69-803. Use of dental assistants.**~~

~~—— [The standards] Standards regulating the use of [unlicensed individuals as] dental assistants shall be established by division rule made in collaboration with the board.~~

~~—— Section 7. Section 58-69-807 is amended to read:~~

~~—— **58-69-807. Complaints -- Rulemaking for telehealth services.**~~

~~—— [(1) A dentist may provide dental services using teledentistry, including the following:]~~

~~—— [(a) collaborating with a licensed dental professional in the completion of the following at} **in a public health setting**{, generally with a written collaborative agreement, directly, or indirectly, in accordance with this chapter:]~~

~~—— [(i) gathering diagnostic information to be used by the dentist at a remote location to form a tentative basic treatment plan and provide appropriate preventive or urgent prescriptions;]~~

~~—— [(ii) perform preventive dental procedures;]~~

~~—— [(iii) provide oral health education; and]~~

~~—— [(iv) perform any palliative or interim treatment or caries arresting treatment outlined in the dentist's treatment plan and authorized by the dentist, in accordance with this chapter and rules made in accordance with this chapter; and]~~

~~—— [(b) at a remote location, using records and diagnostic information that a dental hygienist provides to form a tentative treatment plan for basic dental procedures.]~~

~~—— [(2)] (1) A [licensed dental professional] dentist or dental hygienist, or [any] an entity~~

SB0237S01 compared with SB0237

~~employing a [licensed dental professional] dentist or dental hygienist, may not require a patient to sign an agreement that limits the patient's ability to file a complaint with the division:~~

~~—— [(3) When a licensed dental professional uses teledentistry, the licensed dental professional shall ensure informed consent covers the following additional information:]~~

~~—— [(a) a description of the types of dental care services provided through teledentistry, including limitations on services;]~~

~~—— [(b) the name, contact information, licensure, credentials, and qualifications of all dentists and dental hygienists involved in the patient's dental care; and]~~

~~—— [(c) precautions and protocols for technological failures or emergency situations.]~~

~~—— [(4)] (2) [The] Subject to Title 26, Chapter 60, Telehealth Act, the division, in collaboration with the board, shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, [to establish requirements and parameters regarding teledentistry to ensure the safe use of teledentistry, including additional provisions for] governing the use of telehealth services by a dentist or dental hygienist, including rules addressing:~~

~~—— (a) [transparency, disclosure, and informed consent,] informed consent, which shall include disclosure to the patient of:~~

~~—— (i) the types of telehealth services the dentist or dental hygienist will provide and any limitations of those services;~~

~~—— (ii) the names, contact information, licensure, credentials, and qualifications of those providing the services;~~

~~—— (iii) protocols and precautions taken to address potential technology failures or emergency situations;~~

~~—— (b) [standard] standards of care;~~

~~—— (c) proper documentation of services;~~

~~—— [(d) supervision and scope of practice;]~~

~~—— [(e)] (d) patient complaints; and~~

~~—— [(f)] (e) protocols for referrals;~~

~~];~~

(c) the dental hygienist assumes liability for the work done by the dental hygienist while engaging in the practice of dental hygiene in a public health setting;

SB0237S01 compared with SB0237

(d) the dental hygienist has liability insurance for the work done by the dental hygienist while engaging in the practice of dental hygiene in a public health setting; and

(e) the dental hygienist:

(i) refers to a licensed dentist any patient with a dental need beyond the dental hygienist's scope of practice encountered while engaging in the practice of dental hygiene in a public health setting; and

(ii) sends to the licensed dentist all dental records for the patient generated by the dental hygienist.