

BEFORE THE KANSAS COMMITTEE ON HEALTH AND HUMAN SERVICES
TESTIMONY OF THE KANSAS DENTAL BOARD IN OPPOSITION TO 2017 H.B. 2139

Thank you for the opportunity to testify on behalf of the Kansas Dental Board in opposition to 2017 H.B. 2139. I am Lane Hemsley, the Executive Director of the Kansas Dental Board (“Board”).

The Board has carefully considered 2017 H.B. 2139. Although the Board has not taken an official roll call vote on this particular bill, it has taken roll call votes on many previous bills that are identical or substantially similar. Indeed, this bill is substantially similar to 2015 S.B. 49 and 2015 H.B. 2079. Due to the striking similarities, I have been authorized to oppose this bill on behalf of the Board. The Board opposes this bill for several reasons, each of which is addressed in turn.

A. Proposal for a Kansas Dental School.

Recently, the Kansas Board of Regents approved a targeted funding request of the initial investment for a new dental school at the University of Kansas Medical Center campus in Kansas City, Kansas. In turn, the Governor recently announced plans to pursue the new dental school with the release of FY 2018 and FY 2019 budget proposals. If the Legislature pursues funding of the new dental school, which would become the first dental school in the history of Kansas, the Board stands ready to collaborate with interested parties in the accreditation process.

B. Problematic Provisions.

1. Supervising Dentist Restrictions – New Section 1(b) [p. 1, lines 16 – 23]. The bill requires a “supervising dentist” to be employed by an indigent health clinic or enrolled as a Medicaid provider. The bill, however, does not limit the practice of a Dental Therapist (“DT”) to an indigent health clinic or Medicaid patients. There is no reason to conclude that the practices of DTs will be as self-limiting. It should be expected that DTs will bill self-pay patients and be paid by insurance companies at the same rates as dentists.

2. Procedural Complications – New Section 2. There are potential complications to many of the procedures a DT would be authorized to perform under general supervision (a dentist need not be present), which the DT would not be qualified by training and experience to perform. Examples include, but are not intended to be limited to, the following:

a. New Section 2(c)(18) – (19) [p. 3, lines 33 – 35]. Many of the procedures permitted by the bill are broadly worded. The bill would allow a DT to diagnose dental decay and periodontal disease and formulate a patient’s treatment plan. There are numerous instances in which an apparently appropriate treatment plan can have unintended, negative consequences. As an example, the removal or alteration of the occlusal surface (chewing or biting surface)

during an occlusal adjustment, placement of a crown, or adjustment of a denture can unintentionally change the neural / muscular jaw joint function in a way the causes increased symptoms. The diagnostic and treatment skills necessary to avoid such an unintended consequence are difficult to obtain except through significant clinical training.

b. New Section 2(c)(20) [p. 3, line 36]. The bill would authorize a DT to extract primary teeth. It is quite common for these teeth to fracture during extraction, leaving an embedded tooth root. That tooth root must be surgically removed.

c. New Section 2(c)(22) [p. 3, lines 41 – 42]. The bill would permit a DT to provide “emergency palliative treatment of dental pain.” Such treatment often involves the prescribing of pain-killing drugs of various kinds. It is not clear if the bill is intended to authorize a DT to prescribe drugs to treat dental emergencies and pain.

d. New Section 2(c)(24) – (26) [p. 4, lines 1 – 5]. The bill would authorize a DT to perform crown preparation and placement. Crown preparation involves the permanent removal of large amounts of tooth structure. When over-prepared, the dental pulp can be injured resulting in the necessity for root canal therapy. When underprepared, there can be problems with the crowns not staying on and the occlusion (bite) of the patient not being correct. The process is not simple. Additionally, even among highly trained and experienced dentists, the Board encounters instances of improper preparation or placement of crowns causing difficulties for patients.

e. New Section 2(c)(27) [p. 4, line 6]. The bill would allow a DT to perform a pulpotomy on primary teeth. A pulpotomy requires drilling an opening in the tooth and extracting inflamed nerve and blood tissue in the pulp chamber. Often, the inflamed tissue extends down into the tooth root requiring its extraction by a procedure called a pulpectomy and a root canal, procedures a DT is not authorized or trained to perform. Similarly, whether a pulpectomy is necessary often cannot be determined until the tooth has been opened.

f. New Section 2(c)(34) [p. 4, lines 13 – 14]. The bill would authorize a DT to identify and manage dental and medical emergencies. As previously mentioned, dental emergencies may require the prescribing of pain-killing drugs. It is not clear if the bill is intended to authorize a DT to prescribe drugs to treat dental emergencies and pain.

3. Board Structure – Section 20 [p. 25, lines 8 – 33]. The bill would disproportionately place 2 DTs on the Board in addition to the current 6 dentists, 2 hygienists, and 1 public member. Currently, there are approximately 2219 licensed dentists and 2949 licensed dental hygienists. There are no licensed DTs and the likelihood of having any significant number in the future is questionable. Placing 2 DTs on the Dental Board would result in a highly disproportional representation of an extremely small group. Further, the time frame is unclear as to when the DTs would be added to the Board, but it is assumed the new Board members could start as early as FY 2019. There is no assurance there will be any licensed DTs in Kansas at that time.

C. Patient Insurance Billing.

It should be expected that when a DT performs and bills the patient's insurance for a procedure and a dentist must redo or correct the work, the insurance company will not pay a second time for the procedure being redone by a dentist. This will leave the patient to pay for the retreatment.

D. Proper Standard of Care.

The bill permits a DT to perform many dental procedures that currently can only be performed by a dentist. The bill, however, does not indicate that the DT will be held to the same standard of care as a dentist. Likewise, the bill does not indicate that the DT's license can be disciplined relative to the same standard of care as a dentist. The establishment of the proper standard of care is necessary to process legal disputes in both civil and administrative matters.

E. Potential Access to Care.

There is no established data to show that licensing hygienists as DTs will have the effect of increasing Kansans' access to dental care. In 2012, the Legislature created an Extended Care Permit III for hygienists. *See* K.S.A. 65-1456(h). This legislation provided for an expanded scope of practice for hygienists treating patients in health care clinics and many categories of children, such as those in foster care. It was passed for the purpose of expanding the availability of dental services to underserved populations. Whether this program has been effective in expanding the availability of dental care in Kansas has not yet been determined. A total of 44 ECP III permits have been issued. The effectiveness of the ECP III program should be determined and evaluated before creating another level of dental licensure that many dentists feel will not be in the best interest of the oral health of the public.

F. Conclusion.

In summary, it is worth noting that the hard structure of the tooth, unlike most other parts of the body, will not regenerate once damaged or removed. Under established law, a dental hygienist is not permitted to remove the hard structure of the tooth. Instead, only a fully trained and licensed dentist is permitted to remove hard tooth structure. This bill would allow a DT to remove hard tooth structure, thereby removing long-standing laws intended to protect the public.