



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-3155/1  
MDK/DAK/PJK:wlj:km

## 2001 ASSEMBLY BILL 367

May 1, 2001 – Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Health.

1     **AN ACT** *to renumber* 447.03 (2) (intro.), (a) and (b), 447.06 (2) (d) and 447.06 (2)  
2           (e); *to renumber and amend* 447.06 (1), 447.06 (2) (a), 447.06 (2) (b) and  
3           447.06 (2) (c); *to amend* 15.157 (8) (intro.) and (g), 20.143 (1) (jc) (title), (jm)  
4           (title), and (kr) (title), 447.01 (12), 447.02 (1) (c), 447.02 (2) (d), 447.02 (2) (e),  
5           447.03 (3) (g), 447.04 (1) (a) 4., 447.04 (1) (b), 447.06 (title), 447.065 (title),  
6           447.065 (1), 447.065 (3), 560.183 (title), 560.183 (2) (a) and (b), 560.183 (3) (a),  
7           560.183 (5) (b) 1., 2., 3., 4. and 5. and (d), 560.183 (6m) (a) (intro.), 560.183 (8)  
8           (b), (d), (e) and (f), 560.183 (9), 560.184 (1) (am) and (b), 560.184 (3) (a), 560.184  
9           (5) (b) 1., 560.184 (7) (a), 560.184 (8) (c) 1., 2. and 3. and 560.185 (1); *to repeal*  
10          *and recreate* 447.065 (2); and *to create* 46.03 (44), 447.01 (10), 447.02 (3),  
11          447.03 (2) (b), 447.04 (1) (c), 447.04 (1) (d), 447.06 (2m) (title), 447.06 (3), 447.06  
12          (4), 447.06 (5) (title), 447.06 (6) (title), (d) and (e), 447.06 (7), 560.183 (1) (ad),  
13          560.183 (1) (ae), 560.183 (3) (am), 560.184 (1) (ag) and 560.184 (1) (aj) of the  
14          statutes; **relating to:** regional dental testing service examinations; dentist

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1 licenses for individuals licensed in another jurisdiction; the scope of practice of  
2 dental hygienists; delegation of dentistry practices to dental hygienists and  
3 unlicensed individuals; providing loan assistance to dentists and dental  
4 hygienists who practice in underserved areas; requiring the technical college  
5 system board to report on community dental health education; requiring the  
6 dentistry examining board and the department of health and family services to  
7 prepare a joint report on the ability of the dental work force to meet dental  
8 needs; requiring the department of health and family services to prepare a plan  
9 for a comprehensive oral health data collection system; requiring the  
10 department of health and family services to report on prior authorization for  
11 dental services under medical assistance; and requiring the department of  
12 health and family services and the department of regulation and licensing to  
13 prepare joint reports on improved access to dental services and dental hygiene  
14 services.

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***Analysis by the Legislative Reference Bureau***

This bill is explained in the NOTES provided by the joint legislative council in the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on dental care access. The bill contains the following provisions:

**Regional Dental Examinations**

Under current law, the dentistry examining board is required to grant a dentist license to a person who does all of the following: (1) submits an application for licensure; (2) pays the specified fee; (3) submits evidence of graduation from an accredited dental school; (4) submits evidence that he or she has passed the national dental examination and the examination of a dental testing service approved by the board; (5) passes an

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examination administered by the board on the statutes and rules relating to dentistry; and (6) completes any other requirements established by the board by rule.

The bill modifies the fourth requirement above. Under the bill, the applicant will have to submit evidence that he or she has passed the national dental examination, as required under current law. However, the bill provides that the applicant may pass an examination of either a dental testing service approved by the board or a regional dental testing service in the United States.

Licensure of Dentists from Other Jurisdictions

Current law specifies that the board may grant a license to practice dentistry to a person who is licensed in good standing in another state or U.S. territory or another country if the applicant meets the requirements for licensure established by the board by rule and presents the license and pays the specified fee.

The bill requires the board to grant a license to practice dentistry to an applicant who is licensed in good standing to practice dentistry in another state or territory of the United States or in Canada upon presentation of the license, payment of the required fee, and submission of evidence satisfactory to the board that he or she has met the seven conditions specified in the bill. The board would be permitted to refuse to grant a license to an applicant following an interview if the board determines that discipline that was imposed against the applicant in another jurisdiction demonstrates that the applicant is unfit to practice dentistry.

Educational Dentist's License

The bill requires the board to grant a license to practice dentistry to an applicant who is a faculty member at a school of dentistry in Wisconsin if specified conditions are met. Marquette University School of Dentistry is the only school of dentistry in this state. The person must present his or her license to the board, pay the required fee and submit evidence satisfactory to the board that he or she has met the seven conditions specified in the bill, one of which is that he or she is a faculty member at a school of dentistry in this state. The board would be permitted to refuse to grant a license to an applicant following an interview if the board determines that discipline that was imposed against the applicant in another jurisdiction demonstrates that the applicant is unfit to practice dentistry. In addition, an educational dentist's license granted under the bill is no longer in effect if the licensee ceases to be a full-time faculty member at a school of dentistry in this state.

Dental Hygienist's Scope of Practice

Current law allows a dental hygienist to practice dental hygiene or perform remediable procedures only as an employee or as an independent contractor and only in one of eight specified settings or circumstances. In five of those settings or circumstances, the dental hygienist may practice only if there is a dentist present in the facility or if the practice is being performed pursuant to a dentist's written or oral prescription that meets specified requirements.

The bill retains the eight settings and circumstances in which a dental hygienist may practice. The bill specifies that a dental hygienist may practice dental hygiene only if a dentist is present in the facility or pursuant to a dentist's oral or written prescription that meets the requirements set forth in current law, with two exceptions.

The first exception is that a dental hygienist may practice at a school for the education of dental hygienists without a dentist present in the facility and without a written or oral prescription. A dental hygienist may apply sealants on a patient at a school for the education of dental hygienists without a diagnosis or treatment plan by a dentist if the dental hygienist has performed an oral risk assessment, as defined by the bill.

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The second exception to the requirement that a dentist be present in the facility or an oral or written prescription be used is set forth in the bill for dental hygienists who meet specified education and experience requirements and practice specified procedures. The dental hygienist will be allowed to perform those practices only in the following settings or circumstances: (1) for a school board or a governing body of a private school; (2) for a facility, as defined in current law, a hospital, or a facility established to provide care for terminally ill patients; (3) for a local health department; (4) for a charitable institution open to the general public or to members of a religious sect or order; (5) for a nonprofit home health care agency; and (6) for a nonprofit dental care program serving primarily indigent, economically disadvantaged, or migrant worker populations.

Under this second exception, the dental hygienist would be permitted to practice as specified in the bill if he or she meets the education and experience requirements under the bill to obtain a separate certificate. To obtain such a certificate, the person must have two years experience as a dental hygienist and meet one of four educational requirements.

Delegation of Dentistry Practices

Current law allows a dentist to delegate to an unlicensed person the performance of remediable procedures if certain conditions are met. In addition, a dentist may delegate to a dental hygienist the performance of remediable procedures and the administration of oral systemic premedications, local anesthesia, and subgingival sustained release chemotherapeutic agents if certain requirements are met.

The bill modifies the statute on delegation of practices by a dentist to a dental hygienist. The bill allows any dentistry practice not included in dental hygiene to be delegated to a dental hygienist, except for those practices that are prohibited practices by a dental hygienist under current law. In order for the delegation to occur, the delegated acts must be ones that, in the opinion of the dentist and the dental hygienist, the dental hygienist is competent to perform based on his or her education, training, or experience. In addition, the dental hygienist's performance of the practice must be inspected by a dentist.

The bill also modifies the statute dealing with delegation of remediable procedures to unlicensed persons. In addition to delegation of remediable procedures, the bill permits a dentist to delegate dentistry practices if certain requirements are met. First, the practice must be one that is not one of several prohibitions on delegation enumerated in the bill. Second, the person must have graduated from an accredited dental assisting program or have worked at least 1,000 hours during the preceding 12 months in a clinical dentistry setting. Third, the dentist making the delegation must document in his or her records that the person has been trained or educated to do the dental practice by one of several specified entities. Fourth, the delegated practices must be ones that, in the opinion of the dentist and the individual to whom the practices are delegated, the individual is competent to perform based on his or her education, training, or experience.

Loan Assistance Programs

Under current law, the department of commerce administers a physician loan assistance program and a health care provider loan assistance program. Current law also has established a rural health development council, which advises the department on operation of the two programs. The physician loan assistance program provides loan assistance to physicians who practice in specified eligible practice areas, and the health care provider loan assistance program provides such assistance to physician assistants, nurse-midwives, and nurse practitioners who practice in specified eligible practice areas. The amount of the assistance is \$50,000 under the physician loan assistance program and \$25,000 under the health care provider loan assistance program, both repaid by the department over a three-year period.

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The bill expands the physician loan assistance program to include dentists and renames it the physician and dentist loan assistance program. In addition, the bill expands the health care provider loan assistance program to include dental hygienists. Finally, the bill adds a dentist and a dental hygienist to the rural health development council.

Community Dental Health Education Report

The bill requires the Wisconsin technical college system board to report on the feasibility and cost of increasing the number of sites in the system that offer community dental health education for dentists and dental hygienists. The report must be submitted to the governor and the legislature by the first day of the sixth month after publication of the act.

Dental Work Force Report

The bill requires the dentistry examining board and the department of health and family services to prepare a joint report every five years on the ability of the dental work force to meet the oral health care needs of individuals in Wisconsin. The report must be submitted to the governor and the legislature. The first report is due January 1, 2003.

Oral Health Data Collection Plan

The bill requires the department of health and family services to prepare a plan for development of a comprehensive oral health data collection system. The plan must be submitted to the governor and the legislature by September 1, 2002.

Prior Authorization Report

The bill requires the department of health and family services to prepare a report on its efforts to reduce the requirement for prior authorization for dental services under medical assistance and to simplify the prior authorization process for those services. The report must be submitted to the governor and the legislature by the first day of the sixth month beginning after publication of the act.

Access to Services Report

The bill requires the department of health and family services and the department of regulation and licensing jointly to prepare reports on whether the provisions of the bill relating to a dental hygienist's scope of practice and delegation of dentistry practices have improved access to dental services and dental hygiene services. The reports, which would be submitted to the governor and the legislature, would be done two years and four years after enactment of the bill.

1           **SECTION 1.** 15.157 (8) (intro.) and (g) of the statutes are amended to read:  
2           15.157 (8) RURAL HEALTH DEVELOPMENT COUNCIL. (intro.) There is created in the  
3           department of commerce a rural health development council consisting of 11 13  
4           members nominated by the governor, and with the advice and consent of the senate  
5           appointed, for 5-year terms, and the secretaries of commerce and health and family  
6           services, or their designees. The appointed members shall include all of the  
7           following:

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1 (g) A physician licensed under ch. 448 and, a nurse licensed under ch. 441, both  
2 a dentist licensed under ch. 447, and a dental hygienist licensed under ch. 447, all  
3 of whom practice in a rural area, and a representative of public health services.

NOTE: This SECTION adds a dentist and a dental hygienist to the rural health development council. The council is advisory to the department of commerce, which administers the current physician loan assistance program and the health care provider loan assistance program. The first program is being expanded to include dentists and the second program is being expanded to include dental hygienists.

4 **SECTION 2.** 20.143 (1) (jc) (title), (jm) (title), and (kr) (title) of the statutes are  
5 amended to read:

6 20.143 (1) (jc) (title) *Physician and dentist and health care provider loan*  
7 *assistance programs ~~repayments; penalties.~~*

8 (jm) (title) *Physician and dentist loan assistance program; local contributions.*

9 (kr) (title) *Physician and dentist and health care provider loan assistance*  
10 *programs, repayments and contract.*

NOTE: This SECTION modifies the name of the physician loan assistance program to be the physician and dentist loan assistance program.

11 **SECTION 3.** 46.03 (44) of the statutes is created to read:

12 46.03 (44) DENTAL WORK FORCE REPORT. By January 1, 2003, and every 5 years  
13 thereafter, submit jointly with the dentistry examining board a report to the  
14 legislature in the manner provided under s. 13.172 (2) and to the governor on the  
15 ability of the dental work force to meet the oral health care needs of individuals in  
16 this state. The report shall include findings and any recommendations of the  
17 department and the examining board.

NOTE: SECTIONS 3 and 9 require the department of health and family services and the dentistry examining board to submit a periodic report on the ability of the dental work force to meet the oral health care needs of individuals in Wisconsin. The first report is due January 1, 2003, and subsequent reports would be due every five years thereafter.

18 **SECTION 4.** 447.01 (10) of the statutes is created to read:

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1           447.01 (10) “Oral risk assessment” means a review of the patient’s caries  
2           experience, dental care utilization, use of preventive services, and medical history.  
3           “Oral risk assessment” does not include a dental diagnosis.

          NOTE: This SECTION creates a definition of “oral risk assessment.” The term is used  
in provisions of the bill dealing with the scope of practice of dental hygienists.

4           **SECTION 5.** 447.01 (12) of the statutes is amended to read:

5           447.01 (12) “Remediable procedures” means patient procedures that create  
6           changes within the oral cavity or surrounding structures that are reversible without  
7           professional intervention and do not involve any increased health risks to the  
8           patient.

          NOTE: This SECTION modifies the current definition of “remediable procedures.”  
The bill specifies that the procedures must be reversible without professional  
intervention.

9           **SECTION 6.** 447.02 (1) (c) of the statutes is amended to read:

10          447.02 (1) (c) Subject to ch. 553 and s. 447.06 ~~(1)~~ 447.055, governing dental  
11          franchising.

12          **SECTION 7.** 447.02 (2) (d) of the statutes is amended to read:

13          447.02 (2) (d) The oral systemic premedications and subgingival sustained  
14          release chemotherapeutic agents that may be administered by a dental hygienist  
15          licensed under this chapter under s. 447.06 ~~(2)~~ ~~(e)~~ ~~1.~~ and ~~3~~ (6) (a) and (c).

16          **SECTION 8.** 447.02 (2) (e) of the statutes is amended to read:

17          447.02 (2) (e) The educational requirements for administration of local  
18          anesthesia by a dental hygienist licensed under this chapter under s. 447.06 ~~(2)~~ ~~(e)~~  
19          ~~2~~ (6) (b).

          NOTE: SECTIONS 6 to 8 modify current cross-references to reflect changes made by  
the bill.

20          **SECTION 9.** 447.02 (3) of the statutes is created to read:

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1           447.02 (3) By January 1, 2003, and every 5 years thereafter, the examining  
2 board shall submit jointly with the department of health and family services a report  
3 to the legislature under s. 13.172 (2) and to the governor on the ability of the dental  
4 work force to meet the oral health care needs of individuals in this state. The report  
5 shall include findings and any recommendations of the examining board and the  
6 department.

7           **SECTION 10.** 447.03 (2) (intro.), (a) and (b) of the statutes are renumbered  
8 447.03 (2) (a) (intro.), 1. and 2.

9           **SECTION 11.** 447.03 (2) (b) of the statutes is created to read:

10           447.03 (2) (b) Any individual who is licensed as a dental hygienist under this  
11 chapter is not required to be licensed as a dentist to perform acts delegated by a  
12 dentist under s. 447.06.

13           **SECTION 12.** 447.03 (3) (g) of the statutes is amended to read:

14           447.03 (3) (g) Any individual who provides remediable procedures or other  
15 dentistry practices that are delegated under s. 447.065 (1) or (2).

NOTE: SECTIONS 10 to 12 modify current statutes dealing with unauthorized  
practice of dentistry to allow individuals who are delegated dentistry practices by a  
dentist under the bill to do so without having to be licensed as a dentist.

16           **SECTION 13.** 447.04 (1) (a) 4. of the statutes is amended to read:

17           447.04 (1) (a) 4. Submits evidence satisfactory to the examining board that he  
18 or she has passed the national dental examination and either the examination of a  
19 dental testing service approved by the examining board or an examination of a  
20 regional dental testing service in the United States.

NOTE: This SECTION modifies one of the requirements for licensure as a dentist.  
Under the current requirement, the applicant must submit evidence satisfactory to the  
dentistry examining board that he or she has passed the national dental examination and  
the examination of a dental testing service approved by the examining board. This  
SECTION modifies the latter requirement so that the individual would have to pass either  
the examination of a dental testing service approved by the examining board or an



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examination of a regional dental testing service in the United States. There are four such regional dental testing services in the United States, two of which are currently recognized by the examining board.

1           **SECTION 14.** 447.04 (1) (b) of the statutes is amended to read:

2           447.04 (1) (b) The Except as provided in pars. (c) and (d), the examining board  
3           may grant a license to practice dentistry to an individual who is licensed in good  
4           standing to practice dentistry in another state or territory of the United States or in  
5           another country if the applicant meets the requirements for licensure established by  
6           the examining board by rule and upon presentation of the license and payment of the  
7           fee specified under s. 440.05 (2).

NOTE: This SECTION amends the current statute allowing the dentistry examining board to grant a license to practice dentistry to an individual who is licensed in another state, territory, or country. The statute is amended to reference the two provisions in the bill under which the examining board would be required to grant a license to practice dentistry, as specified in SECTIONS 15 and 16.

8           **SECTION 15.** 447.04 (1) (c) of the statutes is created to read:

9           447.04 (1) (c) 1. The examining board shall grant a license to practice dentistry  
10          to an applicant who is licensed in good standing to practice dentistry in another state  
11          or territory of the United States or in Canada upon presentation of the license,  
12          payment of the fee specified under s. 440.05 (2), and submission of evidence  
13          satisfactory to the examining board that all of the following conditions are met:

14           a. The applicant has graduated from a school of dentistry accredited by the  
15          American Dental Association's commission on dental accreditation.

16           b. The applicant submits a certificate from each jurisdiction in which the  
17          applicant is or has ever been licensed stating that no disciplinary action is pending  
18          against the applicant or the license, and detailing all discipline, if any, that has ever  
19          been imposed against the applicant or the license.

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1 c. The applicant has been engaged in the active practice of dentistry, as defined  
2 in s. DE 1.02 (2), Wis. Adm. Code, in one or more jurisdictions in which the applicant  
3 has a current license in good standing, for at least 48 of the 60 months preceding the  
4 application for licensure in this state.

5 d. The applicant has successfully completed a jurisprudence examination on  
6 the provisions of Wisconsin statutes and administrative rules relating to dentistry  
7 and dental hygiene.

8 e. The applicant possesses a current certificate of proficiency in  
9 cardiopulmonary resuscitation.

10 f. The applicant has disclosed all discipline that has ever been taken against  
11 the applicant in any jurisdiction shown in reports from the national practitioner data  
12 bank and the American association of dental examiners.

13 g. The applicant has presented satisfactory responses during any personal  
14 interview with the board that the board may require to resolve conflicts between the  
15 licensing standards and the applicant's application or to inquire into any discipline  
16 that was imposed against the applicant or the license in another jurisdiction.

17 2. Notwithstanding subd. 1., the examining board may refuse to grant a license  
18 to an applicant following an interview under subd. 1. g. if the examining board  
19 determines that discipline that was imposed against the applicant or the license in  
20 another jurisdiction demonstrates that the applicant is unfit to practice dentistry.

NOTE: This SECTION requires the dentistry examining board to grant a license to  
practice dentistry to an applicant who is licensed in good standing to practice dentistry  
in another state or territory of the United States or in Canada upon satisfying conditions  
specified in the bill. Licensure of persons who have practiced in another jurisdiction is  
commonly referred to as "licensure by endorsement."

21 **SECTION 16.** 447.04 (1) (d) of the statutes is created to read:

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1           447.04 (1) (d) 1. The examining board shall grant a license to practice dentistry  
2 to an applicant who is licensed in good standing to practice dentistry in another state  
3 or territory of the United States or in another country upon presentation of the  
4 license, payment of the fee specified under s. 440.05 (2), and submission of evidence  
5 satisfactory to the examining board that all of the following conditions are met:

6           a. The applicant is a faculty member at a school of dentistry in this state.

7           b. The applicant submits a certificate from each jurisdiction in which the  
8 applicant is or has ever been licensed stating that no disciplinary action is pending  
9 against the applicant or the license, and detailing all discipline, if any, that has ever  
10 been imposed against the applicant or the license.

11           c. The applicant has successfully completed a jurisprudence examination on  
12 the provisions of Wisconsin statutes and administrative rules relating to dentistry  
13 and dental hygiene.

14           d. The applicant possesses a current certificate of proficiency in  
15 cardiopulmonary resuscitation.

16           e. The applicant has disclosed all discipline that has ever been taken against  
17 the applicant in any jurisdiction shown in reports from the national practitioner data  
18 bank and the American association of dental examiners.

19           f. The applicant has presented satisfactory responses during any personal  
20 interview with the board that the board may require to resolve conflicts between the  
21 licensing standards and the applicant's application or to inquire into any discipline  
22 that was imposed against the applicant or the license in another jurisdiction.

23           2. Notwithstanding subd. 1., the examining board may refuse to grant a license  
24 to an applicant following an interview under subd. 1. f. if the examining board

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1 determines that discipline that was imposed against the applicant or the license in  
2 another jurisdiction demonstrates that the applicant is unfit to practice dentistry.

3 3. A license under this paragraph is no longer in effect if the licensee ceases to  
4 be a faculty member at a school of dentistry in this state.

NOTE: This SECTION requires the dentistry examining board to grant a license to practice dentistry to an applicant who is licensed in good standing to practice dentistry in another state or territory in the United States or in another country if the applicant is a faculty member at a school of dentistry in this state and satisfies other conditions specified in this SECTION. A license granted under this provision is no longer in effect if the licensee ceases to be a faculty member at a school of dentistry in this state.

5 **SECTION 17.** 447.06 (title) of the statutes is amended to read:

6 **447.06 (title) Practice Dental hygienist practice limitations.**

7 **SECTION 18.** 447.06 (1) of the statutes is renumbered 447.055 and amended to  
8 read:

9 **447.055 Contract provisions.** No contract of employment entered into  
10 between a dentist and any other party under which the dentist renders dental  
11 services may require the dentist to act in a manner which violates the professional  
12 standards for dentistry set forth in this chapter. Nothing in this subsection section  
13 limits the ability of the other party to control the operation of the dental practice in  
14 a manner in accordance with the professional standards for dentistry set forth in this  
15 chapter.

NOTE: SECTIONS 17 and 18 remove from a statutory section dealing primarily with dental hygienists a provision that relates to dentists. Titles are modified to accommodate this change.

16 **SECTION 19.** 447.06 (2) (a) of the statutes is renumbered 447.06 (1m) and 447.06  
17 (1m) (intro.), as renumbered, is amended to read:

18 **447.06 (1m) PRACTICE CIRCUMSTANCES.** A dental hygienist may practice dental  
19 hygiene or perform remediable procedures or other delegated procedures only as an  
20 employee or as an independent contractor and only as follows:

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1           **SECTION 20.** 447.06 (2) (b) of the statutes is renumbered 447.06 (2m) (a) and  
2 amended to read:

3           447.06 (2m) (a) ~~A Except as provided in subs. (3) and (4), a dental hygienist~~  
4 may practice dental hygiene or perform remediable procedures ~~under par. (a) 1., 4.,~~  
5 ~~6., 7. or 8. only as only if either~~ authorized by a dentist who is licensed to practice  
6 dentistry under this chapter and who is present in the facility in which those  
7 practices or procedures are performed, ~~except as provided in par. (e) or if the practices~~  
8 ~~or procedures are performed pursuant to a prescription that meets the requirements~~  
9 ~~of par. (b).~~

10           **SECTION 21.** 447.06 (2) (c) of the statutes is renumbered 447.06 (2m) (b) and  
11 447.06 (2m) (b) (intro.), as renumbered, is amended to read:

12           447.06 (2m) (b) (intro.) ~~A dental hygienist may practice dental hygiene or~~  
13 ~~perform remediable procedures under par. (a) 1., 4., 6., 7. or 8. if a dentist who is~~  
14 ~~licensed to practice dentistry under this chapter is not present in the facility in which~~  
15 ~~those~~ The practices or procedures are under par. (a) may be performed pursuant to  
16 a prescription only if all of the following conditions are met:

17           **SECTION 22.** 447.06 (2) (d) of the statutes is renumbered 447.06 (5).

18           **SECTION 23.** 447.06 (2) (e) of the statutes is renumbered 447.06 (6).

19           **SECTION 24.** 447.06 (2m) (title) of the statutes is created to read:

20           447.06 (2m) (title) REQUIREMENT FOR A DENTIST PRESENT OR A PRESCRIPTION IF A  
21 DENTIST IS NOT PRESENT.

NOTE: SECTIONS 19 to 24 restructure s. 447.06, stats. This bill restates from current law the general requirement that a dental hygienist may practice only if a dentist is present in the facility or a dentist has issued an oral or written prescription. Exceptions to this general requirement are set forth in SECTIONS 25 and 26 and are different than the exceptions in current law.

22           **SECTION 25.** 447.06 (3) of the statutes is created to read:

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1           447.06 (3) PRACTICE CIRCUMSTANCES WITHOUT A DENTIST PRESENT AND WITHOUT A  
2        PRESCRIPTION; DENTAL HYGIENIST SCHOOL. A dental hygienist may practice dental  
3        hygiene or perform remediable procedures at a school for the education of dental  
4        hygienists without a dentist present in the facility in which the practices or  
5        procedures are performed and without a written or oral prescription. A dental  
6        hygienist may apply sealants on a patient at a school for the education of dental  
7        hygienists without a diagnosis or treatment plan by a dentist if a dental hygienist  
8        has performed an oral risk assessment of the patient. A dental hygienist shall  
9        maintain a written record of the assessment and make appropriate referrals based  
10       on the assessment.

NOTE: This SECTION permits a dental hygienist to practice at a school for the education of dental hygienists without a dentist present in the facility and without a written or oral prescription. In addition, a dental hygienist may apply sealants on a patient in this setting without a diagnosis or treatment plan by a dentist if a dental hygienist has performed an oral risk assessment of the patient.

11           **SECTION 26.** 447.06 (4) of the statutes is created to read:

12           447.06 (4) PRACTICE CIRCUMSTANCES WITHOUT A DENTIST PRESENT AND WITHOUT A  
13        PRESCRIPTION; ADDITIONAL EDUCATION AND EXPERIENCE. (a) A dental hygienist may  
14        perform any of the following practices without a dentist present in the facility in  
15        which the practices are performed and without a written or oral prescription if the  
16        requirements of pars. (am), (b), and (c) are met and if the dental hygienist first  
17        reviews the patient's medical history and performs an oral risk assessment:

18           1. Conduct an oral screening and have a plan of what dental hygiene  
19        procedures will be performed on the patient. Oral screening that is performed solely  
20        for the purpose of data collection does not require an oral risk assessment and does  
21        not require certification under par. (c).

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1           2. Apply dental sealants. Sealants may be applied under this subdivision  
2 without a diagnosis or treatment plan by a dentist.

3           3. Provide fluoride therapies.

4           4. Provide patient education services.

5           5. Expose radiographs if a dentist will be available to read and diagnose the  
6 radiographs.

7           6. Perform oral prophylaxis, if a dentist, nurse practitioner, physician or  
8 physician assistant has reviewed a current medical history for the patient and has  
9 indicated in writing that the patient may receive the service. The dental hygienist  
10 may use topical anesthesia under this subdivision only if the anesthesia has been  
11 prescribed by a dentist, nurse practitioner, physician, or physician assistant. Local  
12 anesthesia may not be administered by a dental hygienist under this subdivision.

13           7. Remove supragingival or subgingival calcareous deposits, subgingival  
14 cement, or extrinsic stains from a natural or restored surface of a human tooth or a  
15 fixed replacement for a human tooth, perform debridement or deep scaling or root  
16 planing of teeth, if a dentist, nurse practitioner, physician, or physician assistant has  
17 reviewed a current medical history of the patient and has indicated in writing that  
18 the patient may receive the service for the patient. The dental hygienist may use  
19 topical anesthesia under this subdivision only if prescribed by a dentist, nurse  
20 practitioner, physician, or physician assistant. Local anesthesia may not be  
21 administered by a dental hygienist under this subdivision.

22           (am) A dental hygienist shall maintain a written record of and oral risk  
23 assessment performed under par. (a) and make appropriate referrals based on the  
24 assessment.

25           (b) The practices under par. (a) may be performed only as follows:

**ASSEMBLY BILL 367****SECTION 26**

- 1           1. For a school board or a governing body of a private school.
- 2           2. For a facility, as defined in s. 50.01 (1m), a hospital, as defined in s. 50.33 (2),  
3 or a facility established to provide care for terminally ill patients.
- 4           3. For a local health department, as defined in s. 250.01 (4).
- 5           4. For a charitable institution open to the general public or to members of a  
6 religious sect or order.
- 7           5. For a nonprofit home health care agency.
- 8           6. For a nonprofit dental care program serving primarily indigent,  
9 economically disadvantaged, or migrant worker populations.
- 10           (c) A dental hygienist may perform the practices under par. (a) only if certified  
11 by the examining board in dental hygiene practice circumstances without a dentist  
12 present and without a prescription. The examining board shall issue a certificate in  
13 dental hygiene practice circumstances without a dentist present and without a  
14 prescription to an individual who documents to the board that he or she has 2 years  
15 of experience as a dental hygienist and meets any of the following:
  - 16           1. Has submitted to the examining board proof of course completion issued by  
17 an accredited dental school or an accredited dental hygiene school in dental hygiene  
18 circumstances without a dentist present and without a prescription. This course  
19 may be offered in conjunction with a national or state dental or dental hygiene  
20 association.
  - 21           2. Has been certified in community dental health, public health, or public  
22 health education from an accredited dental school or an accredited dental hygiene  
23 program.
  - 24           3. Has worked for at least 1,000 hours in a public health or community health  
25 setting.



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1           4. Has received a bachelor's degree from an accredited college or university.

NOTE: This SECTION creates an exception to the general rule that in order for a dental hygienist to practice, there must be a dentist in the facility or the practice must be pursuant to a written or oral prescription by a dentist. A dental hygienist who meets specified education and experience requirements would be allowed to perform specified procedures in the six practice settings or circumstances specified in this SECTION.

2           **SECTION 27.** 447.06 (5) (title) of the statutes is created to read:

3           447.06 (5) (title) PROHIBITED PRACTICES.

NOTE: This SECTION creates a new subsection title to reflect a restructuring of s. 447.06, stats.

4           **SECTION 28.** 447.06 (6) (title), (d) and (e) of the statutes are created to read:

5           447.06 (6) (title) DELEGATION BY A DENTIST TO A DENTAL HYGIENIST.

6           (d) Any dentistry practice not included in dental hygiene, except as provided  
7 in sub. (5), if all of the following conditions are met:

8           1. The delegated practices are ones that, in the opinion of the dentist and the  
9 dental hygienist, the dental hygienist is competent to perform based on his or her  
10 education, training, or experience.

11           2. The dental hygienist's performance of the practice is inspected by a dentist.

12           (e) A remediable procedure, except that a dentist need not be present on the  
13 premises in which the procedure is performed if it is performed pursuant to a  
14 prescription that meets the requirements of sub. (2m) (b).

NOTE: This SECTION allows a dentist to delegate to a dental hygienist any dentistry practice not included in dental hygiene, with certain exceptions specified in current law, if two conditions are met. First, the delegated practices must be ones that, in the opinion of the dentist and the dental hygienist, the dental hygienist is competent to perform based on his or her education, training, or experience. Second, the dental hygienist's performance of the practice must be inspected by a dentist.

15           **SECTION 29.** 447.06 (7) of the statutes is created to read:

16           447.06 (7) DENTIST RESPONSIBLE FOR DELEGATION. A dentist who delegates to a  
17 dental hygienist the performance of any practice or remediable procedure under sub.

**ASSEMBLY BILL 367**

1 (6) is responsible for that dental hygienist's performance of that delegated practice  
2 or procedure.

3 **SECTION 30.** 447.065 (title) of the statutes is amended to read:

4 **447.065 (title) Delegation of remediable procedures and dental**  
5 **dentistry practices to unlicensed individuals.**

NOTE: Since all provisions dealing with delegation by a dentist to a dental hygienist will be in s. 447.06, stats., SECTION 29 replicates a current law dealing with dental responsibility for delegation and SECTION 30 modifies the title of s. 447.065, stats., to reflect that that section applies only to delegation to unlicensed individuals.

6 **SECTION 31.** 447.065 (1) of the statutes is amended to read:

7 447.065 (1) A dentist who is licensed to practice dentistry under this chapter  
8 may delegate to an individual who is not licensed under this chapter only the  
9 performance of remediable procedures, and only or other dentistry practices subject  
10 to sub. (2), if all of the following conditions are met:

11 (a) The unlicensed individual performs the remediable procedure or dentistry  
12 practices in accordance with a treatment plan approved by the dentist.

13 (b) The dentist is on the premises when the unlicensed individual performs the  
14 remediable procedures or dentistry practices.

15 (c) The unlicensed individual's performance of the remediable procedures or  
16 dentistry practices is ~~subject to inspection~~ inspected by the dentist.

17 **SECTION 32.** 447.065 (2) of the statutes is repealed and recreated to read:

18 447.065 (2) A dentist may make a delegation under sub. (1) of dentistry  
19 practices that are not remediable procedures if all of the following requirements are  
20 met:

21 (a) The practice does not involve a practice under s. 447.01 (3) (a), (b), (e), (f),  
22 or (g), diagnosis of a dental disease or ailment, determination of any treatment or any  
23 regimen of treatment, prescription or ordering of medication, performance of any

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1 procedure that involves the intentional cutting of soft or hard tissue of the mouth by  
2 any means, or administration of local anesthesia or subgingival sustained release  
3 chemotherapeutic agents.

4 (b) The individual has graduated from an accredited dental assisting program  
5 or has worked at least 1,000 hours during the preceding 12 months in a clinical  
6 dentistry setting.

7 (c) The dentist making the delegation documents in his or her records that the  
8 individual has been trained or educated to do the delegated practice by a dental  
9 school; dental hygiene program; dental assisting program; a program offered or  
10 approved by a national or state dental, dental hygiene, or dental assisting  
11 association; or a program approved by the examining board.

12 (d) The delegated practices are ones that, in the opinion of the dentist and the  
13 individual to whom the practices are delegated, the individual is competent to  
14 perform based on his or her education, training, or experience.

NOTE: SECTION 31 modifies the current law regarding delegation of remediable procedures by a dentist to an unlicensed individual to reflect that a dentist may delegate additional dentistry practices to an unlicensed individual. With regard to those other dentistry practices, the three conditions for delegation in current law must be met as well as the four conditions specified in SECTION 32.

15 **SECTION 33.** 447.065 (3) of the statutes is amended to read:

16 447.065 (3) A dentist who delegates to another an unlicensed individual the  
17 performance of any practice or remediable procedure is responsible for that  
18 individual's performance of that delegated practice or procedure.

NOTE: This SECTION amends the current law on dental responsibility for delegation to make it applicable to delegation to unlicensed individuals. A separate provision dealing with dental responsibility for delegation to a dental hygienist is created in SECTION 29.

19 **SECTION 34.** 560.183 (title) of the statutes is amended to read:

20 **560.183 (title) Physician and dentist loan assistance program.**

**ASSEMBLY BILL 367****SECTION 34**

NOTE: SECTIONS 34 to 43 include dentists in the current physician loan assistance program and rename the program to be the physician and dentist loan assistance program. In addition, the bill defines “dental health professional shortage area.”

1           **SECTION 35.** 560.183 (1) (ad) of the statutes is created to read:

2           560.183 (1) (ad) “Dental health professional shortage area” means an area that  
3 is designated by the federal department of health and human services under 42 CFR  
4 part 5, appendix B, as having a shortage of dental professionals.

5           **SECTION 36.** 560.183 (1) (ae) of the statutes is created to read:

6           560.183 (1) (ae) “Dentist” means an individual licensed under s. 447.04 (1).

7           **SECTION 37.** 560.183 (2) (a) and (b) of the statutes are amended to read:

8           560.183 (2) (a) The department may repay, on behalf of a physician or dentist,  
9 up to \$50,000 in educational loans obtained by the physician or dentist from a public  
10 or private lending institution for education in an accredited school of medicine or  
11 dentistry or for postgraduate medical training.

12           (b) A physician or dentist who is a participant in the national health service  
13 corps scholarship program under 42 USC 254n, or a physician or dentist who was a  
14 participant in that program and who failed to carry out his or her obligations under  
15 that program, is not eligible for loan repayment under this section.

16           **SECTION 38.** 560.183 (3) (a) of the statutes is amended to read:

17           560.183 (3) (a) The department shall enter into a written agreement with the  
18 physician. ~~In the agreement, the physician shall agree, in which the physician~~  
19 agrees to practice at least 32 clinic hours per week for 3 years in one or more eligible  
20 practice areas in this state, except that a physician specializing in psychiatry may  
21 only agree to practice psychiatry in a mental health shortage area and a physician  
22 in the expanded loan assistance program under sub. (9) may only agree to practice  
23 at a public or private nonprofit entity in a health professional shortage area. The

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1 physician shall also agree to care for patients who are insured or for whom health  
2 benefits are payable under medicare, medical assistance, or any other governmental  
3 program.

4 **SECTION 39.** 560.183 (3) (am) of the statutes is created to read:

5 560.183 (3) (am) The department shall enter into a written agreement with the  
6 dentist, in which the dentist agrees to practice at least 32 clinic hours per week for  
7 3 years in one or more dental health professional shortage areas in this state. The  
8 dentist shall also agree to care for patients for whom health benefits are payable  
9 under medical assistance.

10 **SECTION 40.** 560.183 (5) (b) 1., 2., 3., 4. and 5. and (d) of the statutes are  
11 amended to read:

12 560.183 (5) (b) 1. The degree to which there is an extremely high need for  
13 medical care in the eligible practice area or health professional shortage area in  
14 which the a physician desires to practice and the degree to which there is an  
15 extremely high need for dental care in the dental health professional shortage area  
16 in which a dentist desires to practice.

17 2. The likelihood that a physician will remain in the eligible practice area or  
18 health professional shortage area, and that a dentist will remain in the dental health  
19 professional shortage area, in which he or she desires to practice after the loan  
20 repayment period.

21 3. The per capita income of the eligible practice area or health professional  
22 shortage area in which a physician desires to practice and of the dental health  
23 professional shortage area in which a dentist desires to practice.

24 4. The financial or other support for physician recruitment and retention  
25 provided by individuals, organizations, or local governments in the eligible practice

**ASSEMBLY BILL 367****SECTION 40**

1 area or health professional shortage area in which a physician desires to practice and  
2 for dentist recruitment and retention provided by individuals, organizations, or local  
3 governments in the dental health professional shortage area in which a dentist  
4 desires to practice.

5 5. The geographic distribution of the physicians and dentists who have entered  
6 into loan repayment agreements under this section and the geographic distribution  
7 of the eligible practice areas ~~or~~, health professional shortage areas, and dental health  
8 professional shortage areas in which the eligible applicants desire to practice.

9 (d) An agreement under sub. (3) does not create a right of action against the  
10 state on the part of the physician ~~or the, dentist, or~~ lending institution for failure to  
11 make the payments specified in the agreement.

12 **SECTION 41.** 560.183 (6m) (a) (intro.) of the statutes is amended to read:

13 560.183 **(6m)** (a) (intro.) The department shall, by rule, establish penalties to  
14 be assessed by the department against physicians or dentists who breach an  
15 agreement agreements entered into under sub. (3) (a). The rules shall do all of the  
16 following:

17 **SECTION 42.** 560.183 (8) (b), (d), (e) and (f) of the statutes are amended to read:

18 560.183 **(8)** (b) Advise the department and rural health development council  
19 on the identification of eligible practice areas with an extremely high need for  
20 medical care and dental health professional shortage areas with an extremely high  
21 need for dental care.

22 (d) Assist the department to publicize the program under this section to  
23 physicians, dentists, and eligible communities.

24 (e) Assist physicians and dentists who are interested in applying for the  
25 program under this section.

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1 (f) Assist communities in obtaining physicians' and dentists' services through  
2 the program under this section.

3 **SECTION 43.** 560.183 (9) of the statutes is amended to read:

4 560.183 (9) EXPANDED LOAN ASSISTANCE PROGRAM. The department may agree  
5 to repay loans as provided under this section on behalf of a physician or dentist under  
6 an expanded physician and dentist loan assistance program that is funded through  
7 federal funds in addition to state matching funds. To be eligible for loan repayment  
8 under the expanded physician and dentist loan assistance program, a physician or  
9 dentist must fulfill all of the requirements for loan repayment under this section, as  
10 well as all of the following:

11 (a) The physician or dentist must be a U.S. citizen.

12 (b) The physician or dentist may not have a judgment lien against his or her  
13 property for a debt to the United States.

14 (c) The physician or dentist must agree to do all of the following:

15 1. ~~Accept~~ If the provider is a physician, accept medicare assignment as  
16 payment in full for services or articles provided.

17 2. Use a sliding fee scale or a comparable method of determining payment  
18 arrangements for patients who are not eligible for medicare or medical assistance  
19 and who are unable to pay the customary fee for the physician's or dentist's services.

20 3. Practice at a public or private nonprofit entity in a health professional  
21 shortage area, if the provider is a physician, or in a dental health professional  
22 shortage area, if the provider is a dentist.

23 **SECTION 44.** 560.184 (1) (ag) of the statutes is created to read:

24 560.184 (1) (ag) "Dental health professional shortage area" has the meaning  
25 given in s. 560.183 (1) (ad).

**ASSEMBLY BILL 367****SECTION 44**

NOTE: SECTIONS 44 to 50 include dental hygienists in the health care provider loan assistance program by including dental hygienists in the definition of "health care provider."

1           **SECTION 45.** 560.184 (1) (aj) of the statutes is created to read:

2           560.184 (1) (aj) "Dental hygienist" means an individual licensed under s.  
3 447.04 (2).

4           **SECTION 46.** 560.184 (1) (am) and (b) of the statutes are amended to read:

5           560.184 (1) (am) "Eligible practice area" means a primary care shortage area,  
6 an American Indian reservation, or trust lands of an American Indian tribe, except  
7 that with respect to a dental hygienist "eligible practice area" means a dental health  
8 professional shortage area.

9           (b) "Health care provider" means a dental hygienist, physician assistant,  
10 nurse-midwife, or nurse practitioner.

11           **SECTION 47.** 560.184 (3) (a) of the statutes is amended to read:

12           560.184 (3) (a) The department shall enter into a written agreement with the  
13 health care provider. In the agreement, the health care provider shall agree to  
14 practice at least 32 clinic hours per week for 3 years in one or more eligible practice  
15 areas in this state, except that a health care provider in the expanded loan assistance  
16 program under sub. (8) who is not a dental hygienist may only agree to practice at  
17 a public or private nonprofit entity in a health professional shortage area.

18           **SECTION 48.** 560.184 (5) (b) 1. of the statutes is amended to read:

19           560.184 (5) (b) 1. The degree to which there is an extremely high need for  
20 medical care in the eligible practice area or health professional shortage area in  
21 which an eligible applicant who is not a dental hygienist desires to practice and the  
22 degree to which there is an extremely high need for dental care in the dental health



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1 professional shortage area in which an eligible applicant who is a dental hygienist  
2 desires to practice.

3 **SECTION 49.** 560.184 (7) (a) of the statutes is amended to read:

4 560.184 (7) (a) Advise the department and council on the identification of  
5 communities with an extremely high need for health care, including dental health  
6 care.

7 **SECTION 50.** 560.184 (8) (c) 1., 2. and 3. of the statutes are amended to read:

8 560.184 (8) (c) 1. ~~Accept~~ If the health care provider is not a dental hygienist,  
9 accept medicare assignment as payment in full for services or articles provided.

10 2. Use a sliding fee scale or a comparable method of determining payment  
11 arrangements for patients who are not eligible for medicare or medical assistance  
12 and who are unable to pay the customary fee for the physician's health care  
13 provider's services.

14 3. Practice at a public or private nonprofit entity in a health professional  
15 shortage area, if the health care provider is not a dental hygienist, or in a dental  
16 health professional shortage area, if the health care provider is a dental hygienist.

17 **SECTION 51.** 560.185 (1) of the statutes is amended to read:

18 560.185 (1) Advise the department on matters related to the physician and  
19 dentist loan assistance program under s. 560.183 and the health care provider loan  
20 assistance program under s. 560.184.

NOTE: This SECTION modifies the statute that requires the rural health development council to advise the department on matters related to the two loan assistance programs addressed in the bill. This SECTION modifies the name of the physician loan assistance program to be the physician and dentist loan assistance program.

21 **SECTION 52. Nonstatutory provisions.**

**ASSEMBLY BILL 367****SECTION 52**

1           (1) The department of health and family services shall prepare a plan for  
2 development of a comprehensive oral health data collection system. The plan shall  
3 identify data to be collected, sources from which the data can be collected, costs of  
4 implementing the system, and any statutory changes that are needed. The  
5 department shall submit its plan to the legislature, in the manner provided under  
6 section 13.172 (2) of the statutes, and to the governor by September 1, 2002.

7           (2) The department of health and family services shall prepare a report on its  
8 efforts to reduce the requirement for prior authorization for dental services under  
9 medical assistance and to simplify the prior authorization process for dental  
10 services. The department shall submit its report to the legislature, in the manner  
11 provided under section 13.172 (2) of the statutes, and to the governor by the first day  
12 of the 6th month beginning after the effective date of this subsection.

NOTE: Subsections (1) and (2) of this SECTION require the department of health and family services to prepare two reports for submission to the governor and the legislature. The first report would be a plan for development of a comprehensive oral health data collection system, which must identify data to be collected, sources from which the data can be collected, costs of implementing the system, and any statutory changes that are needed. The second report would be on the department's efforts to reduce the requirement for prior authorization for dental services under medical assistance and to simplify the prior authorization process for dental services.

13           (3) The department of health and family services and the department of  
14 regulation and licensing shall jointly prepare reports on whether the provisions of  
15 this act that modify sections 447.06 and 447.065 of the statutes have improved access  
16 to dental services and dental hygiene services. The departments shall submit the  
17 reports to the legislature, in the manner provided under section 13.172 (2) of the  
18 statutes, and to the governor by the first day of the 24th month and the first day of  
19 the 48th month beginning after the effective date of this subsection.

NOTE: Subsection (3) of this SECTION requires the department of health and family services and the department of regulation and licensing jointly to prepare reports on whether the provisions of this act that relate to scope of practice of dental hygienists and

