

EXTENDED CARE PERMIT LAWS AND REGULATIONS

DENTAL AND DENTAL HYGIENE

Knowing the laws governing dental hygiene and more specifically dental hygiene services in community settings is essential for all involved in ECP hygiene services.

K.S.A. Chapter 65, Article 14 provides a complete picture of regulations addressing all aspects of dental care in Kansas. K.S.A. Chapter 65, Article 1456 lays the foundation for regulations of dentists and dental hygienist, including ECP:
<http://www.accesskansas.org/kdb/legislation.html>

Chapter 65, Article 1 lists KDB Permanent Administrative Regulations
<http://www.accesskansas.org/kdb/regulations.html>

OTHER LAWS APPLICABLE TO ECP HYGIENE SERVICES

Health Insurance Portability and Accountability Act (HIPAA)- every health care provider, regardless of size, who electronically transmits health information in connection with certain transactions, is a covered entity. These transactions include claims, benefit eligibility inquiries, and referral authorization requests. The Office of Civil Rights and US Department of Health and Human Services offers a full range of easily understood explanations of HIPAA regulations. When you offer an ECP hygiene service, you may need to have patients sign a Notice of Privacy Practices.

Decision Matrix for HIPAA: Online “test” to determine if a specific ECP services qualifies for coverage.

<http://hhs.gov/ocr/hipaa/smallbusiness.html>

Tax Implications of employment status under ECP: Self-employment

IRS self-employment tax- (quoted from IRS)

If the hygienist is reimbursed for her services as an independent contractor, rather than an employee with taxes taken out, the IRS will expect regular “self-employment” taxes.

To determine if the ECP service is operated as self-employment, check out this website from the IRS and consult an accountant:

<http://www.irs.gov/business/small/article/0,,id=98846,00.html>

Volunteering ECP hygiene services:

Check with IRS website and an accountant to determine if expenses incurred as an ECP volunteering in community settings are tax deductible.



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INSURANCE

Professional Liability:

Unless an ECP hygienist is working for a Federally Qualified Health Center, the law, K.S.A. 65-1456(f) & (g) states that an ECP hygienists must carry professional liability insurance. It is in addition to whatever coverage hygienists may have with employers. Hygienists using ECP in a self-employed environment, should carry professional liability coverage self-employed and employed. The insurance application has a section for checking off both types of employment.

General Liability:

This insurance protects hygienists and ECP sites against claims made in conjunction with non-professional parts of services/business. This topic of general liability should be explored with the ECP site before the hygienist starts providing services. If a hygienist provides services in a variety of ECP sites, it may be wise to also invest in general liability insurance. It should be available from the same company providing professional liability coverage.

Three sources to explore:

- Marsh Affinity Group Services
<https://www.proliability.com/ahc/homePage.do?PromoReqCode=googledenthyg1>
- Health Providers Services Organization (HPSO)
<http://www.hpso.com>
- Lockton Insurance
<http://adho.lockton-ins.com/pl>

Coverage for damage, loss and theft of equipment, tools and supplies

Laws governing ECP do not require the hygienist to have insurance covering damage and loss of instruments and equipment. At the same time, the hygienist is wise to make sure that loss or theft of supplies, instruments and equipment are insured. Most insurance companies offering homeowners and renters insurance can advise on the type of coverage and cost to cover business equipment.



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Extended Care Permit I

(f) The practice of dental hygiene may be performed with consent of the parent or legal guardian, on children participating in residential and non-residential centers for therapeutic services, on all children in families which are receiving family preservation services, on all children in the custody of the secretary of social and rehabilitation services or the commissioner of juvenile justice authority and in an out-of-home placement residing in foster care homes, on children being served by runaway youth programs and homeless shelters; and on children birth to five and children in public and nonpublic schools kindergarten through grade 12 regardless of the time of year and children participating in youth organizations, so long as such children birth to five, in public or nonpublic schools or participating in youth organizations also meet the requirements of medicaid, healthwave, or free or reduced lunch programs or Indian health services; at any state correctional institution, local health department or indigent health care clinic, as defined in K.S.A. 65-1466, and amendments thereto, and at any federally qualified health center, federally qualified health center look-alike or a community health center that receives funding from section 330 of the health center consolidation act, on a person, inmate, client or patient thereof and on other persons as may be defined by the board; so long as:

(1) The dental hygienist has received an “extended care permit” from the Kansas dental board specifying that the dental hygienist has performed 1,200 hours of dental hygiene care within the past three years or has been an instructor at an accredited dental hygiene program for two academic years within the past three years;

(2) the dental hygienist shows proof of professional liability insurance;

(3) the dental hygienist is sponsored by a dentist licensed in the state of Kansas, including a signed agreement stating that the dentist shall monitor the dental hygienist’s activities, except such dentist shall not monitor more than five dental hygienists with an extended care permit;

(4) the tasks and procedures are limited to: (A) removal of extraneous deposits, stains and debris from the teeth and the rendering of smooth surfaces of the teeth to the depths of the gingival sulci; (B) the application of topical anesthetic if the dental hygienist has completed the required course of instruction approved by the dental board; (C) the application of fluoride; (D) dental hygiene instruction; (E) assessment of the patient’s apparent need for further evaluation by a dentist to diagnose the presence of dental caries and other abnormalities; and (F) other duties as may be delegated verbally or in writing by the sponsoring dentists consistent with this act;

(5) the dental hygienist advises the patient and legal guardian that the services are preventive in nature and do not constitute a comprehensive dental diagnosis and care;

(6) the dental hygienist provides a copy of the findings and the report of treatment to the sponsoring dentist and any other dental or medical supervisor at a participating organization found in this subsection; and supervisor at a participating organization found in this subsection; and

(7) any payment to the dental hygienist for dental hygiene services is received from the sponsoring dentist or the participating organization found in this subsection.



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Extended Care Permit II

(g) The practice of dental hygiene may be performed on persons with developmental disabilities and on persons who are 65 years and older who live in a residential center, an adult care home, subsidized housing, hospital long-term care unit, state institution or are served in a community senior service center, elderly nutrition program or at the home of a homebound person who qualifies for the federal home and community based service (HCBS) waiver on a resident of a facility, client or patient thereof so long as:

(1) The dental hygienist has received an “extended care permit II” from the Kansas dental board specifying that the dental hygienist has: (A) performed 1,800 hours of dental hygiene care or has been an instructor at an accredited dental hygiene program for two academic years within the past three years; and (B) completed six hours of training on the care of special needs patients or other training as may be accepted by the board;

(2) the dental hygienist shows proof of professional liability insurance;

(3) the dental hygienist is sponsored by a dentist licensed in the state of Kansas, including a signed agreement stating that the dentist shall monitor the dental hygienist’s activities, except such dentist shall not monitor more than five dental hygienists with an extended care permit II;



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(4) the tasks and procedures are limited to: (A) removal of extraneous deposits, stains and debris from the teeth and the rendering of smooth surfaces of the teeth to the depths of the gingival sulci; (B) the application of topical anesthetic if the dental hygienist has completed the required course of instruction approved by the dental board; (C) the application of fluoride; (D) dental hygiene instruction; (E) assessment of the patient's apparent need for further evaluation by a dentist to diagnose the presence of dental caries and other abnormalities; and (F) other duties as may be delegated verbally or in writing by the sponsoring dentist consistent with this act;

(5) the dental hygienist advises the patient and legal guardian that the services are preventive in nature and do not constitute comprehensive dental diagnosis and care;

(6) the dental hygienist provides a copy of the findings and the report of treatment to the sponsoring dentist and any other dental or medical supervisor at a participating organization found in this subsection;

(7) any payment to the dental hygienist for dental hygiene services is received from the sponsoring dentist or the participating organization found in this subsection; and

(8) the dental hygienist completes a minimum of six hours of education in the area of special needs care within the board's continuing dental education requirements for re-licensure.

(h) In addition to the duties specifically mentioned in subsection (b) of K.S.A. 65-1456, and amendments thereto, any duly licensed dental hygienist may:

(1) Give fluoride treatments as a prophylactic measure, as defined by the United States public health service and as recommended for use in dentistry;

(2) remove overhanging restoration margins and periodontal surgery materials by hand scaling instruments; and

(3) administer local block and infiltration anesthesia and nitrous oxide. (A) The administration of local anesthesia shall be performed under the direct supervision of a licensed dentist except that topically applied local anaesthesia, as defined by the board, may be administered under the general supervision of a licensed dentist. (B) Each dental hygienist who administers local anesthesia regardless of the type shall have completed courses of instruction in local anesthesia and nitrous oxide which have been approved by the board.



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(i) (1) The courses of instruction required in subsection (h)(3)(B) shall provide a minimum of 12 hours of instruction at a teaching institution accredited by the American dental association.

(2) The courses of instruction shall include courses which provide both didactic and clinical instruction in: (A) Theory of pain control; (B) anatomy; (C) medical history; (D) pharmacology; and (E) emergencies and complications.

(3) Certification in cardiac pulmonary resuscitation shall be required in all cases.

(j) The board is authorized to issue to a qualified dental hygienist an extended care permit or extended care permit II as provided in subsections (f) and (g) of this section.

(k) Nothing in this section shall be construed to prevent a dental hygienist from providing dental hygiene instruction or visual oral health care screenings or fluoride applications in a school or community based setting regardless of the age of the patient.

New Sec 5. A dental hygienist who meets the requirements of subsections (f)(1) or (g)(1)(A) of K.S.A. 65-1456, and amendments thereto, prior to a period of retirement or disability, but not within the past three years, and is returning to active practice after such period of retirement or disability under K.S.A. 65-1431(i), and amendments thereto, or who has retained a license to practice but has not practiced in the past three or more years may qualify for an extended care permit by completing a refresher course approved by the board under K.A.R. 71-3-8 or performing 200 hours of dental hygiene care within the last 12 months under the supervision of dentists licensed in the state of Kansas and provides the board with a letter of endorsement from one of the supervising dentists.



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71-3-9. Extended care permits. (a) Definitions.

(1) "Extended care permit I" shall mean a permit issued pursuant to K.S.A. 65-1456(f), and amendments thereto.

(2) "Extended care permit II" shall mean a permit issued pursuant to K.S.A. 65-1456(g), and amendments thereto.

(3) "Extended care permit treatment" shall mean the treatment that a hygienist may provide if the hygienist has a valid extended care permit I or II.

(4) "Patient assessment report" shall mean the report of findings and treatment required by K.S.A. 65-1456(f)(6) or (g)(6), and the amendments thereto.

(5) "Sponsoring dentist" shall mean a dentist who fulfills the requirements of K.S.A. 65-1456(f)(3) or (g)(3), and amendments thereto.

(b) Application for permit. Each applicant for an extended care permit I or II shall file with the board a completed application on a form provided by the board.

(c) Notice of practice location to sponsoring dentist. Before provided extended care permit treatment at a new location, each hygienist shall inform the sponsoring dentist, orally or in writing, of the new address and the type of procedures to be performed there.

(d) Patient assessment reports.

(1) Each required patient assessment report shall include a description of the extended care permit treatment, the date or dates of treatment, and the hygienist's assessment of the patient's apparent need for further evaluation by a dentist.

(2) No later than 30 days from the date on which extended care permit treatment is completed, the hygienist providing the treatment shall cause the required patient assessment report to be delivered to the sponsoring dentist.

(3) When providing extended care permit treatment at a location operated by an organization with a dental or medical supervisor, the dental hygienist providing the extended care permit treatment shall also cause the required patient assessment report to be delivered to the dental or medical supervisor within 30 days from the date on which the extended care permit treatment is completed.

(e) Suspension of extended care permit treatment. If a hygienist's sponsoring dentist cannot or will not continue to function as a sponsoring dentist, the hygienist shall cease providing extended care permit treatment until the hygienist obtains a written agreement with a replacement sponsoring dentist.

(f) Review of patient assessment reports. A sponsoring dentist shall review each patient assessment report within 30 days of receiving the report. (Authorized by K.S.A. 74-1406(e); implementing K.S.A. 2003 Supp. 65-1456; effective Sept. 17, 2004.)

