



## 2017 ASSEMBLY BILL 749

December 19, 2017 - Introduced by Representatives FELZKOWSKI, BALLWEG, BERCEAU, BILLINGS, BORN, BRANDTJEN, E. BROOKS, R. BROOKS, CONSIDINE, CROWLEY, FIELDS, GENRICH, GOYKE, HORLACHER, HUTTON, KRUG, KUGLITSCH, KULP, LOUDENBECK, MURPHY, MURSAU, NOVAK, OHNSTAD, PETRYK, RIPP, ROHRKASTE, SPIROS, STEFFEN, STUCK, TAUCHEN, THIESFELDT, TITTL, TUSLER and VANDERMEER, cosponsored by Senators TESTIN, LEMAHIEU, NASS, OLSEN, STROEBEL and VINEHOUT. Referred to Committee on Health.

\*\*\*AUTHORS SUBJECT TO CHANGE\*\*\*

1     **AN ACT to amend** 447.04 (title), 447.07 (3) (intro.), 447.07 (3) (e), 447.07 (3) (f),  
2           447.07 (3) (g), 447.07 (3) (h), 448.03 (2) (a), 448.21 (1) (a), 450.03 (1) (e) and  
3           462.02 (2) (d); and **to create** 440.03 (13) (b) 28m., 447.035 and 447.04 (3) of the  
4           statutes; **relating to:** certification of expanded function dental auxiliaries and  
5           granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

This bill establishes a certification program for expanded function dental auxiliaries administered by the Dentistry Examining Board. Under the bill, a person who is not licensed as a dentist or as a dental hygienist may perform the following activities, as delegated and supervised by a licensed dentist, if the person is certified by the examining board as an expanded function dental auxiliary: 1) placing and finishing restoration material after a dentist removes tooth decay; 2) applying sealants; 3) coronal polishing; 4) impressions; 5) temporizations; 6) packing cord; 7) removing cement from crowns; 8) adjusting dentures and other removable oral appliances; 9) removing sutures and dressings; and 10) applying topical fluoride, fluoride varnish, or similar dental topical agent. The bill authorizes the examining board to promulgate rules for the certification and practice of expanded function dental auxiliaries, but prohibits the examining board from promulgating rules that allow an expanded practice dental auxiliary to cut hard or soft tissue, diagnose, or plan treatments.

The examining board may grant a permanent certification as an expanded function dental auxiliary to an applicant who, among other things, has practiced as

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a dental assistant for a certain period, completes an instructional program, and is proficient in cardiopulmonary resuscitation. Under the bill, the examining board investigates, holds hearings, and makes findings pertaining to violations of the bill and other statutes enforced by the examining board, and the examining board may impose on violators the same penalties that apply under current law to dentists and dental hygienists.

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:*

1           **SECTION 1.** 440.03 (13) (b) 28m. of the statutes is created to read:

2           440.03 **(13)** (b) 28m. Expanded function dental auxiliary.

3           **SECTION 2.** 447.035 of the statutes is created to read:

4           **447.035 Certification required; expanded function dental auxiliaries.**

5           **(1)** In this section, “auxiliary” means an expanded function dental auxiliary.

6           **(2)** Notwithstanding s. 447.03 (1) and (2), a certification to practice as an  
7           auxiliary shall permit the holder to perform all of the following as delegated and  
8           supervised by a dentist:

9           (a) Placement and finishing of restoration material, including the use of a  
10          high-speed handpiece, after a dentist has removed tooth decay.

11          (b) Application of sealants.

12          (c) Coronal polishing.

13          (d) Impressions.

14          (e) Temporizations.

15          (f) Packing cord.

16          (g) Removal of cement from crowns.

17          (h) Adjustment of dentures and other removable oral appliances.

18          (i) Removal of sutures and dressings.

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1 (j) Application of topical fluoride, fluoride varnish, or similar dental topical  
2 agent.

3 (3) The examining board shall promulgate rules for the certification and  
4 practice of auxiliaries.

5 (4) The rules promulgated under sub. (3) shall do all of the following:

6 (a) Require an applicant to the instructional program described in par. (b) to  
7 demonstrate in his or her application that the individual satisfies one of the following  
8 criteria before the individual may be permitted to enroll in the instructional  
9 program:

10 1. The applicant has completed at least 1,000 hours practicing as a dental  
11 assistant and the applicant holds the certified dental assistant credential issued by  
12 the Dental Assisting National Board, Inc., or its successor.

13 2. The applicant has completed at least 2,000 hours practicing as a dental  
14 assistant, as verified by the supervising licensed dentist.

15 (b) Require an applicant for certification under s. 447.04 (3) to demonstrate to  
16 the satisfaction of the examining board that the applicant has successfully completed  
17 no fewer than 70 hours of classroom instruction in an instructional program that  
18 provides the training required to practice as an auxiliary.

19 (c) Require a dentist who delegates a procedure to an auxiliary certified under  
20 s. 447.04 (3) to remain on the premises where the auxiliary is performing the  
21 procedure until the procedure is complete and the dentist has verified that the  
22 procedure has been performed successfully.

23 (d) Require each auxiliary to maintain current proficiency in cardiopulmonary  
24 resuscitation, including the use of an automated external defibrillator achieved

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1 through instruction provided by an individual, organization, or institution of higher  
2 education approved under s. 46.03 (38) to provide such instruction.

3 (5) The rules promulgated under sub. (3) may not permit an auxiliary to  
4 perform any of the following:

5 (a) Cutting of hard or soft tissue.

6 (b) Diagnosis.

7 (c) Treatment planning.

8 **SECTION 3.** 447.04 (title) of the statutes is amended to read:

9 **447.04 (title) Licensure; certification.**

10 **SECTION 4.** 447.04 (3) of the statutes is created to read:

11 447.04 (3) EXPANDED FUNCTION DENTAL AUXILIARY. The examining board shall  
12 grant a certification to practice as an expanded function dental auxiliary to an  
13 individual who does all of the following:

14 (a) Pays the fee specified in s. 440.05 (1).

15 (b) Submits evidence satisfactory to the examining board that he or she has  
16 completed the instructional program required under s. 447.035 (4) (b).

17 (c) Submits evidence satisfactory to the examining board that he or she has  
18 current proficiency in cardiopulmonary resuscitation, including the use of an  
19 automated external defibrillator achieved through instruction provided by an  
20 individual, organization, or institution of higher education approved under s. 46.03  
21 (38) to provide such instruction.

22 **SECTION 5.** 447.07 (3) (intro.) of the statutes is amended to read:

23 447.07 (3) (intro.) Subject to the rules promulgated under s. 440.03 (1), the  
24 examining board may make investigations and conduct hearings in regard to any  
25 alleged action of any dentist ~~or~~, dental hygienist, or expanded function dental

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1 auxiliaries, of a mobile dentistry program registrant, or of any other person it has  
2 reason to believe is engaged in or has engaged in the practice of dentistry or dental  
3 hygiene, or the operation of a mobile dentistry program, in this state, and may, on  
4 its own motion, or upon complaint in writing, reprimand any dentist or dental  
5 hygienist, or expanded function dental auxiliary who is licensed or certified under  
6 this chapter, or any mobile dentistry program registrant, or deny, limit, suspend, or  
7 revoke his or her license or certificate, or the registration of the mobile dentistry  
8 program registrant, if it finds that the dentist, dental hygienist, expanded function  
9 dental auxiliary, or mobile dentistry program registrant has done any of the  
10 following:

11 **SECTION 6.** 447.07 (3) (e) of the statutes is amended to read:

12 447.07 (3) (e) Subject to ss. 111.321, 111.322, and 111.335, been convicted of a  
13 crime, the circumstances of which substantially relate to the practice of dentistry or  
14 dental hygiene, the practice of an expanded function dental auxiliary, or the  
15 operation of a mobile dentistry program.

16 **SECTION 7.** 447.07 (3) (f) of the statutes is amended to read:

17 447.07 (3) (f) Violated this chapter or any federal or state statute or rule that  
18 relates to the practice of dentistry or dental hygiene, or an expanded function dental  
19 auxiliary, or the operation of a mobile dentistry program.

20 **SECTION 8.** 447.07 (3) (g) of the statutes is amended to read:

21 447.07 (3) (g) Subject to ss. 111.321, 111.322 and 111.34, practiced dentistry or  
22 dental hygiene or as an expanded function dental auxiliary while his or her ability  
23 was impaired by alcohol or other drugs.

24 **SECTION 9.** 447.07 (3) (h) of the statutes is amended to read:

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1           447.07 (3) (h) Engaged in conduct that indicates a lack of knowledge of, an  
2 inability to apply or the negligent application of, principles or skills of dentistry or  
3 dental hygiene or the practice of an expanded function dental auxiliary.

4           **SECTION 10.** 448.03 (2) (a) of the statutes is amended to read:

5           448.03 (2) (a) Any person lawfully practicing within the scope of a license,  
6 permit, registration, certificate, or certification granted to practice midwifery under  
7 subch. XIII of ch. 440, to practice professional or practical nursing or  
8 nurse-midwifery under ch. 441, to practice chiropractic under ch. 446, to practice  
9 dentistry or dental hygiene or as an expanded function dental auxiliary under ch.  
10 447, to practice optometry under ch. 449, to practice acupuncture under ch. 451 or  
11 under any other statutory provision, or as otherwise provided by statute.

12           **SECTION 11.** 448.21 (1) (a) of the statutes is amended to read:

13           448.21 (1) (a) The practice of dentistry or dental hygiene within the meaning  
14 of ch. 447 or the practice of an expanded function dental auxiliary under s. 447.035.

15           **SECTION 12.** 450.03 (1) (e) of the statutes is amended to read:

16           450.03 (1) (e) Any person lawfully practicing within the scope of a license,  
17 permit, registration, certificate, or certification granted to provide home medical  
18 oxygen under s. 450.076, to practice professional or practical nursing or  
19 nurse-midwifery under ch. 441, to practice dentistry or dental hygiene or as an  
20 expanded function dental auxiliary under ch. 447, to practice medicine and surgery  
21 under ch. 448, to practice optometry under ch. 449, or to practice veterinary medicine  
22 under ch. 89, or as otherwise provided by statute.

23           **SECTION 13.** 462.02 (2) (d) of the statutes is amended to read:

