

As Introduced

**127th General Assembly
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H. B. No. 188

Representatives Adams, Boyd

**Cosponsors: Representatives McGregor, J., Peterson, Flowers, Aslanides,
Fessler, Otterman, Stebelton, Huffman, Raussen, Healy**

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A B I L L

To amend sections 4715.22, 4715.23, 4715.39, and 1
4715.64 and to enact sections 4715.221, 4715.222, 2
4715.223, 4715.224, 4715.225, 4715.226, 4715.227, 3
4715.228, 4715.229, and 4715.2210 of the Revised 4
Code to permit dental hygienists to enter into 5
collaboration agreements with dentists. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4715.22, 4715.23, 4715.39, and 7
4715.64 be amended and sections 4715.221, 4715.222, 4715.223, 8
4715.224, 4715.225, 4715.226, 4715.227, 4715.228, 4715.229, and 9
4715.2210 of the Revised Code be enacted to read as follows: 10

Sec. 4715.22. (A) ~~As~~ This section applies only when a 11
licensed dental hygienist is not providing services under a 12
collaboration agreement entered into under section 4715.222 of the 13
Revised Code. 14

As used in this section, "health care facility" means either 15
of the following: 16

(1) A hospital registered under section 3701.07 of the 17
Revised Code; 18

(2) A "home" as defined in section 3721.01 of the Revised Code. 19
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(B) A licensed dental hygienist shall practice under the supervision, order, control, and full responsibility of a dentist licensed under this chapter. A dental hygienist may practice in a dental office, public or private school, health care facility, dispensary, or public institution. Except as provided in division (C) or (D) of this section, a dental hygienist may not provide dental hygiene services to a patient when the supervising dentist is not physically present at the location where the dental hygienist is practicing. 21
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(C) A dental hygienist may provide, for not more than fifteen consecutive business days, dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if all of the following requirements are met: 30
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(1) The dental hygienist has at least two years and a minimum of three thousand hours of experience in the practice of dental hygiene. 35
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(2) The dental hygienist has successfully completed a course approved by the state dental board in the identification and prevention of potential medical emergencies. 38
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(3) The dental hygienist complies with written protocols for emergencies the supervising dentist establishes. 41
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(4) The dental hygienist does not perform, while the supervising dentist is absent from the location, procedures while the patient is anesthetized, definitive root planing, definitive subgingival curettage, or other procedures identified in rules the state dental board adopts. 43
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(5) The supervising dentist has evaluated the dental hygienist's skills. 48
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(6) The supervising dentist examined the patient not more than seven months prior to the date the dental hygienist provides the dental hygiene services to the patient.

(7) The dental hygienist complies with written protocols or written standing orders that the supervising dentist establishes.

(8) The supervising dentist completed and evaluated a medical and dental history of the patient not more than one year prior to the date the dental hygienist provides dental hygiene services to the patient and, except when the dental hygiene services are provided in a health care facility, the supervising dentist determines that the patient is in a medically stable condition.

(9) If the dental hygiene services are provided in a health care facility, a doctor of medicine and surgery or osteopathic medicine and surgery who holds a current certificate issued under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code is present in the health care facility when the services are provided.

(10) In advance of the appointment for dental hygiene services, the patient is notified that the supervising dentist will be absent from the location and that the dental hygienist cannot diagnose the patient's dental health care status.

(11) The dental hygienist is employed by, or under contract with, one of the following:

(a) The supervising dentist;

(b) A dentist licensed under this chapter who is one of the following:

(i) The employer of the supervising dentist;

(ii) A shareholder in a professional association formed under Chapter 1785. of the Revised Code of which the supervising dentist is a shareholder;

(iii) A member or manager of a limited liability company formed under Chapter 1705. of the Revised Code of which the supervising dentist is a member or manager;	80 81 82
(iv) A shareholder in a corporation formed under division (B) of section 1701.03 of the Revised Code of which the supervising dentist is a shareholder;	83 84 85
(v) A partner or employee of a partnership or a limited liability partnership formed under Chapter 1775. of the Revised Code of which the supervising dentist is a partner or employee.	86 87 88
(c) A government entity that employs the dental hygienist to provide dental hygiene services in a public school or in connection with other programs the government entity administers.	89 90 91
(D) A dental hygienist may provide dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if the services are provided as part of a dental hygiene program that is approved by the state dental board and all of the following requirements are met:	92 93 94 95 96 97
(1) The program is operated through a school district board of education or the governing board of an educational service center; the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code; a national, state, district, or local dental association; or any other public or private entity recognized by the state dental board.	98 99 100 101 102 103 104
(2) The supervising dentist is employed by or a volunteer for, and the patients are referred by, the entity through which the program is operated.	105 106 107
(3) The services are performed after examination and diagnosis by the dentist and in accordance with the dentist's written treatment plan.	108 109 110

(E) No person shall do either of the following:	111
(1) Practice dental hygiene in a manner that is separate or otherwise independent from the dental practice of a supervising dentist;	112 113 114
(2) Establish or maintain an office or practice that is primarily devoted to the provision of dental hygiene services.	115 116
(F) The state dental board shall adopt rules under division (C) of section 4715.03 of the Revised Code identifying procedures a dental hygienist may not perform when practicing in the absence of the supervising dentist pursuant to division (C) or (D) of this section.	117 118 119 120 121
<u>Sec. 4715.221. As used in this section and sections 4715.222 to 4715.2210 of the Revised Code:</u>	122 123
<u>(A) "Collaboration agreement" means an agreement entered into by a dentist and a dental hygienist under section 4715.222 of the Revised Code.</u>	124 125 126
<u>(B) "Dentist" means an individual licensed under this chapter to practice dentistry.</u>	127 128
<u>(C) "Dental hygienist" means an individual licensed under this chapter to practice as a dental hygienist.</u>	129 130
<u>(D) "Facility" means any of the following:</u>	131
<u>(1) A dental office;</u>	132
<u>(2) A "public school" or "nonpublic school" as defined in section 3701.93 of the Revised Code;</u>	133 134
<u>(3) A "health care facility" as defined in section 4715.22 of the Revised Code;</u>	135 136
<u>(4) A "home health agency" as defined in section 5101.61 of the Revised Code;</u>	137 138

<u>(5) A dispensary;</u>	139
<u>(6) A "state correctional institution" as defined in section 2967.01 of the Revised Code;</u>	140 141
<u>(7) A clinic or shelter financed with public or private funds;</u>	142 143
<u>(8) A mobile dental unit;</u>	144
<u>(9) A community health fair;</u>	145
<u>(10) A comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C. 9831, as amended, and is licensed as a child day-care center;</u>	146 147 148 149
<u>(11) A corporation, association, group, institution, society, or other organization that is exempt from federal taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 501(c)(3), as amended, and serves individuals who are uninsured or enrolled in the medicaid program established under Chapter 5111. of the Revised Code or the disability medical assistance program established under Chapter 5115. of the Revised Code;</u>	150 151 152 153 154 155 156 157
<u>(12) A special needs program;</u>	158
<u>(13) A residential facility licensed under section 5123.19 of the Revised Code;</u>	159 160
<u>(14) Any other location specified by the state dental board in rules adopted under section 4715.2210 of the Revised Code.</u>	161 162
<u>(E) "Patient" means an individual who receives dental hygiene services at a facility, a student enrolled in the facility at which the services are provided, or a resident of a facility at which the services are provided.</u>	163 164 165 166
<u>(F) "Special needs program" means a program operated by any of the following:</u>	167 168

(1) A school district board of education or the governing board of an educational service center; 169
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(2) The board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code; 171
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(3) A national, state, district, or local dental association. 174

Sec. 4715.222. (A) A dental hygienist who has provided the evidence required by section 4715.223 of the Revised Code may enter into a collaboration agreement with a dentist under which the dentist authorizes all of the following: 175
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(1) The dental hygienist to provide the services described in section 4715.224 of the Revised Code to patients at any facility without the dentist being physically present at the facility where the services are provided; 179
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(2) The dental hygienist to provide the services described in section 4715.224 of the Revised Code to patients without prior examination of the patients by the dentist or diagnosis or treatment plans approved by the dentist, unless otherwise specified in the collaboration agreement; 183
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(3) The dental hygienist to work with dental assistants certified by the dental assisting national board or the Ohio commission on dental assistant certification who may perform only the duties they are authorized to provide without the direct supervision of a dentist. 188
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(B) A collaboration agreement must meet the requirements of section 4715.225 of the Revised Code. 193
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Sec. 4715.223. Prior to entering into a collaboration agreement, a dental hygienist shall do both of the following: 195
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(A) Submit written evidence of all of the following to the 197

<u>dentist who is to be the collaborating dentist under the</u>	198
<u>agreement:</u>	199
<u>(1) The dental hygienist has at least two years and a minimum</u>	200
<u>of three thousand hours of experience in the practice of dental</u>	201
<u>hygiene.</u>	202
<u>(2) The dental hygienist has successfully completed a course</u>	203
<u>approved by the state dental board in the identification and</u>	204
<u>prevention of potential medical emergencies and infection control.</u>	205
<u>(3) The dental hygienist holds current certification to</u>	206
<u>perform basic life-support procedures as required under section</u>	207
<u>4715.251 of the Revised Code.</u>	208
<u>(4) The dental hygienist holds professional liability</u>	209
<u>insurance.</u>	210
<u>(B) Permit the dentist who is to be the collaborating dentist</u>	211
<u>under the agreement to personally observe the dental hygienist</u>	212
<u>provide to patients the services described in section 4715.224 of</u>	213
<u>the Revised Code.</u>	214
<u>Sec. 4715.224. A dental hygienist may provide the following</u>	215
<u>services to a patient under a collaboration agreement:</u>	216
<u>(A) Oral health promotion and disease prevention education,</u>	217
<u>including information gathering, screening, and assessment;</u>	218
<u>(B) Removal of calcareous deposits or accretions from the</u>	219
<u>crowns and roots of teeth;</u>	220
<u>(C) Sulcular placement of prescribed materials;</u>	221
<u>(D) Polishing of the clinical crowns of teeth, including</u>	222
<u>restorations;</u>	223
<u>(E) Standard diagnostic and radiological procedures for the</u>	224
<u>purpose of contributing to the provision of dental services;</u>	225
<u>(F) Fluoride applications;</u>	226

<u>(G) Placement of sealants;</u>	227
<u>(H) Any other basic remediable intraoral dental task or procedure designated by the state dental board in rules adopted under section 4715.2210 of the Revised Code.</u>	228 229 230
<u>Sec. 4715.225. A collaboration agreement shall be in writing and do all of the following at a minimum:</u>	231 232
<u>(A) Contain the following terms:</u>	233
<u>(1) A procedure the dental hygienist must follow in securing the dentist's review of the patient's record and medical history if the dental hygienist believes the patient's condition is medically compromised;</u>	234 235 236 237
<u>(2) A procedure the dental hygienist must follow if the dental hygienist believes the patient's condition presents an emergency dental condition;</u>	238 239 240
<u>(3) Practice protocols for the dental hygienist to follow in providing services to patients who are different ages and who require different procedures, including recommended intervals for the performance of dental hygiene services and a period of time in which an examination by a dentist should occur;</u>	241 242 243 244 245
<u>(4) Specific protocols for the placement of pit and fissure sealants and requirements for follow-up care to assure the efficacy of the sealants after application;</u>	246 247 248
<u>(5) A procedure for creating and maintaining dental records for patients that are treated by the dental hygienist. The procedure must specify where the records are to be located.</u>	249 250 251
<u>(6) Services specified under section 4715.224 of the Revised Code, if any, for which the dentist requires either or both of the following:</u>	252 253 254
<u>(a) The patient be examined by the dentist prior to the</u>	255

<u>dental hygienist providing the services;</u>	256
<u>(b) The dentist to approve a patient-specific diagnosis or treatment plan.</u>	257 258
<u>(7) The number of patient visits for dental hygiene services, if any, that the dentist requires the dental hygienist to provide, on an annual basis, to patients in special needs programs for a charge determined according to the sliding fee scale established by the state dental board in rules adopted under section 4715.2210 of the Revised Code.</u>	259 260 261 262 263 264
<u>(8) A statement that the dentist and dental hygienist agree that the dental hygienist's provision of services under a collaboration agreement is neither of the following:</u>	265 266 267
<u>(a) The practice of dental hygiene in a manner that is separate or otherwise independent from the dental practice of a collaborating dentist;</u>	268 269 270
<u>(b) The establishment or maintenance of an office or practice that is primarily devoted to the provision of dental hygiene services.</u>	271 272 273
<u>(B) Contain a blank copy of a consent to treatment form that the dental hygienist can use for purposes of complying with the requirement of section 4715.227 of the Revised Code;</u>	274 275 276
<u>(C) Be signed and dated by both the dentist and dental hygienist.</u>	277 278
Sec. 4715.226. <u>(A) A copy of a collaboration agreement must be maintained by the dentist and the dental hygienist who are parties to the agreement. The dental hygienist shall ensure that each facility where the dental hygienist provides services under a collaboration agreement has a copy of the agreement that the dental hygienist works under at that facility.</u>	279 280 281 282 283 284
<u>(B) Except as provided under division (C) of this section,</u>	285

prior approval of a collaboration agreement by the state dental board is not required before a dental hygienist provides services under an agreement, but the dentist or dental hygienist who is a party to the agreement must provide the board with a copy of the agreement on the board's request. 286
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(C) A dentist shall not at any one time be a party to more than three collaboration agreements unless the state dental board determines that the dentist meets the criteria, established by the board in rules adopted under section 4715.2210 of the Revised Code, to be a party to more than three agreements. 291
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Sec. 4715.227. Before performing any services on a patient under a collaboration agreement, a dental hygienist must provide the patient or patient's representative with a consent to treatment form and secure the signature or mark of the patient or representative on it. The signature or mark may be provided through reasonable accommodation, including the use of assistive technology or augmentative devices. 296
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The form must include a statement advising the patient that the dental hygiene services provided are not a substitute for a dental examination by a dentist, that a dentist will not be present during the provision of dental hygiene services, and that the dental hygienist cannot diagnose the patient's dental health care status. 303
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Sec. 4715.228. Following the provision of services to a patient under a collaboration agreement, the dental hygienist shall refer the patient to the dentist who is the collaborating dentist under the agreement the dental hygienist is working under at the facility where the patient was treated. The dental hygienist shall give the patient or patient's representative a completed referral form that lists the name, office address, and 309
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office telephone of the collaborating dentist and the date the 316
dental hygienist provided the services to the patient. The dental 317
hygienist shall provide a copy of each completed referral form and 318
the patient's record to the collaborating dentist. 319

Sec. 4715.229. A collaboration agreement entered into under 320
section 4715.222 of the Revised Code may be terminated by the 321
dentist or dental hygienist who entered into the agreement. A 322
dentist or dental hygienist who terminates a collaboration 323
agreement shall provide written notice to the opposite party. The 324
dental hygienist shall not provide services under the agreement 325
once notice of the termination has been given or sent to the 326
dentist. 327

Sec. 4715.2210. The state dental board shall adopt rules to 328
do all of the following: 329

(A) For purposes of division (D)(14) of section 4715.221 of 330
the Revised Code, specify the locations other than those listed in 331
divisions (D)(1) to (13) of section 4715.221 of the Revised Code 332
that are to be considered facilities under sections 4715.222 to 333
4715.229 of the Revised Code. 334

(B) For purposes of division (H) of section 4715.224 of the 335
Revised Code, designate the basic remediable intraoral dental 336
tasks or procedures, in addition to the services listed in 337
divisions (A) to (G) of section 4715.224 of the Revised Code, that 338
a dental hygienist may provide under a collaboration agreement. 339

(C) For purposes of division (A)(7) of section 4715.225 of 340
the Revised Code, establish a sliding fee scale that determines 341
the fee a patient in a special needs program is charged for dental 342
hygiene services provided by a dental hygienist under a 343
collaboration agreement. 344

(D) For purposes of division (C) of section 4715.226 of the 345

Revised Code, establish the criteria the board must use in 346
determining whether a dentist can be a party to more than three 347
collaboration agreements at one time. 348

Sec. 4715.23. Except when a dental hygienist is providing 349
services under a collaboration agreement entered into under 350
section 4715.222 of the Revised Code, all of the following apply 351
with respect to the practice of a dental hygienist: 352

(A) The practice of a dental hygienist shall consist of those 353
prophylactic, preventive, and other procedures that licensed 354
dentists are authorized by this chapter and rules of the dental 355
board to assign only to licensed dental hygienists or to qualified 356
personnel under section 4715.39 of the Revised Code. 357

(B) Licensed dentists may assign to dental hygienists 358
intraoral tasks that do not require the professional competence or 359
skill of the licensed dentist and that are authorized by board 360
rule. Such performance of intraoral tasks by dental hygienists 361
shall be under supervision and full responsibility of the licensed 362
dentist, and at no time shall more than three dental hygienists be 363
practicing clinical hygiene under the supervision of the same 364
dentist. The foregoing shall not be construed as authorizing the 365
assignment of diagnosis, treatment planning and prescription 366
(including prescriptions for drugs and medicaments or 367
authorizations for restorative, prosthodontic, or orthodontic 368
appliances); or, except when done in conjunction with the removal 369
of calcarious deposits, dental cement, or accretions on the crowns 370
and roots of teeth, surgical procedures on hard and soft tissues 371
within the oral cavity or any other intraoral procedure that 372
contributes to or results in an irremediable alteration of the 373
oral anatomy; or the making of final impressions from which casts 374
are made to construct any dental restoration. 375

(C) The state dental board shall issue rules defining the 376

procedures that may be performed by licensed dental hygienists 377
engaged in school health activities or employed by public 378
agencies. 379

Sec. 4715.39. (A) The state dental board may define the 380
duties that may be performed by dental assistants and other 381
individuals designated by the board as qualified personnel. If 382
defined, the duties shall be defined in rules adopted in 383
accordance with Chapter 119. of the Revised Code. The rules may 384
include training and practice standards for dental assistants and 385
other qualified personnel. The standards may include examination 386
and issuance of a certificate. If the board issues a certificate, 387
the recipient shall display the certificate in a conspicuous 388
location in any office in which the recipient is employed to 389
perform the duties authorized by the certificate. 390

(B) A dental assistant may polish the clinical crowns of 391
teeth if all of the following requirements are met: 392

(1) The dental assistant's polishing activities are limited 393
to the use of a rubber cup attached to a slow-speed rotary dental 394
hand piece to remove soft deposits that build up over time on the 395
crowns of teeth. 396

(2) The polishing is performed only after a dentist has 397
evaluated the patient and any calculus detected on the teeth to be 398
polished has been removed by a dentist or dental hygienist. 399

(3) The dentist supervising the assistant supervises not more 400
than two dental assistants engaging in polishing activities at any 401
given time. 402

(4) The dental assistant is certified by the dental assisting 403
national board or the Ohio commission on dental assistant 404
certification. 405

(5) The dental assistant receives a certificate from the 406

board authorizing the assistant to engage in the polishing 407
activities. The board shall issue the certificate if the 408
individual has successfully completed training in the polishing of 409
clinical crowns through a program accredited by the American 410
dental association commission on dental accreditation or 411
equivalent training approved by the board. The training shall 412
include courses in basic dental anatomy and infection control, 413
followed by a course in coronal polishing that includes didactic, 414
preclinical, and clinical training; any other training required by 415
the board; and a skills assessment that includes successful 416
completion of standardized testing. The board shall adopt rules 417
pursuant to division (A) of this section establishing standards 418
for approval of this training. 419

(C) A dental assistant may apply pit and fissure sealants if 420
all of the following requirements are met: 421

(1) A dentist evaluates the patient and designates the teeth 422
and surfaces that will benefit from the application of sealant on 423
the day the application is to be performed. 424

(2) The dental assistant is certified by the dental assisting 425
national board or the Ohio commission on dental assistant 426
certification. 427

(3) The dental assistant has successfully completed a course 428
in the application of sealants consisting of at least two hours of 429
didactic instruction and six hours of clinical instruction through 430
a program provided by an institution accredited by the American 431
dental association commission on dental accreditation or a program 432
provided by a sponsor of continuing education approved by the 433
board. 434

(4) The dentist supervising the assistant has observed the 435
assistant successfully apply at least six sealants. 436

(5) The dentist supervising the assistant checks and approves 437

the application of all sealants placed by the assistant before the 438
patient leaves the location where the sealant application 439
procedure is performed. 440

(D) Subject to this section and the applicable rules of the 441
board, licensed dentists may assign to dental assistants and other 442
qualified personnel dental procedures that do not require the 443
professional competence or skill of the licensed dentist, a dental 444
hygienist, or an expanded function dental auxiliary as this 445
section or the board by rule authorizes dental assistants and 446
other qualified personnel to perform. The performance of dental 447
procedures by dental assistants and other qualified personnel 448
shall be under direct supervision and full responsibility of the 449
licensed dentist. 450

(E) Nothing in this section shall be construed by rule of the 451
state dental board or otherwise to do the following: 452

(1) Authorize dental assistants or other qualified personnel 453
to engage in the practice of dental hygiene as defined by sections 454
4715.22 and 4715.23 of the Revised Code, to enter into a 455
collaboration agreement under section 4715.222 of the Revised 456
Code, or to perform the duties of a dental hygienist, including 457
the removal of calcarious deposits, dental cement, or accretions 458
on the crowns and roots of teeth other than as authorized pursuant 459
to this section; 460

(2) Authorize dental assistants or other qualified personnel 461
to engage in the practice of an expanded function dental auxiliary 462
as specified in section 4715.64 of the Revised Code or to perform 463
the duties of an expanded function dental auxiliary other than as 464
authorized pursuant to this section. 465

(3) Authorize the assignment of any of the following: 466

(a) Diagnosis; 467

(b) Treatment planning and prescription, including 468

prescription for drugs and medicaments or authorization for 469
restorative, prosthodontic, or orthodontic appliances; 470

(c) Surgical procedures on hard or soft tissue of the oral 471
cavity, or any other intraoral procedure that contributes to or 472
results in an irremediable alteration of the oral anatomy; 473

(d) The making of final impressions from which casts are made 474
to construct any dental restoration. 475

(F) No dentist shall assign any dental assistant or other 476
individual acting in the capacity of qualified personnel to 477
perform any dental procedure that the assistant or other 478
individual is not authorized by this section or by board rule to 479
perform. No dental assistant or other individual acting in the 480
capacity of qualified personnel shall perform any dental procedure 481
other than in accordance with this section and any applicable 482
board rule or any dental procedure that the assistant or other 483
individual is not authorized by this section or by board rule to 484
perform. 485

Sec. 4715.64. (A) The practice of an expanded function dental 486
auxiliary shall consist of the following: 487

(1) The procedures involved in the placement of restorative 488
materials limited to amalgam restorative materials and 489
~~non-metallic~~ nonmetallic restorative materials, including 490
direct-bonded restorative materials; 491

(2) The procedures involved in the placement of sealants; 492

(3) Any additional procedures authorized by the state dental 493
board in rules adopted under section 4715.66 of the Revised Code. 494

(B) An expanded function dental auxiliary shall practice 495
under the direct supervision, order, control, and full 496
responsibility of a dentist licensed under this chapter. At no 497
time shall more than two expanded function dental auxiliaries be 498

practicing as expanded function dental auxiliaries under the 499
direct supervision of the same dentist. An expanded function 500
dental auxiliary shall not practice as an expanded function dental 501
auxiliary when the supervising dentist is not physically present 502
at the location where the expanded function dental auxiliary is 503
practicing. 504

(C) Nothing in this section shall be construed by rule of the 505
board or otherwise to authorize an expanded function dental 506
auxiliary to engage in the practice of dental hygiene as defined 507
by sections 4715.22 and 4715.23 of the Revised Code or to enter 508
into a collaboration agreement under section 4715.222 of the 509
Revised Code. 510

Section 2. That existing sections 4715.22, 4715.23, 4715.39, 511
and 4715.64 of the Revised Code are hereby repealed. 512