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# A BILL FOR AN ACT

RELATING TO DENTISTRY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Hawaii has a culture  
2 of respecting medical professionals, including dentists, and  
3 many consumers are reluctant to challenge the qualifications of  
4 health care practitioners who hold themselves out to be licensed  
5 and duly qualified. Furthermore, concerns about a health care  
6 practitioner may arise once a consumer has begun receiving  
7 treatment and the consumer may not know where to seek  
8 information regarding the practitioner's licensing status or how  
9 to access prior complaint history.

10           The legislature further finds that the administration of  
11 general anesthesia, deep sedation, or moderate (conscious)  
12 sedation during routine dental procedures is a matter that  
13 requires greater oversight than is currently required. While  
14 the administration of such drugs can be done safely as part of a  
15 routine dental procedure, it is important that the facilities,  
16 equipment, and staffing of a dental practice that administers  
17 these drugs are adequately equipped to respond to a patient who  
18 may experience medical complications during a procedure. Safety



1 of patients is always of paramount concern, but is especially  
2 important when the patients involved are small children, whose  
3 age and size render them especially vulnerable to large doses of  
4 anesthesia or sedatives.

5 The legislature additionally finds that if better standards  
6 had been in place, the tragic death of three-year old dental  
7 patient Finley Boyle could have been prevented. In December of  
8 2013, Finley went to a dentist in Kailua and received the  
9 maximum dose of five different sedative drugs. Subsequently,  
10 she stopped breathing and suffered a heart attack and brain  
11 damage. She died in hospice a few weeks later. The dentist in  
12 question lacked any formal training in administering oral  
13 sedatives to a child, but advertised her dental practice as  
14 being one "for children".

15 The legislature notes that the current administrative rules  
16 of the board of dental examiners authorize the board to conduct  
17 an inspection and evaluation of the facilities, equipment, and  
18 personnel of those applying for a written authorization or  
19 permit to administer general anesthesia, deep sedation, or  
20 moderate (conscious) sedation, but the rules do not make such  
21 inspections mandatory.



1           The purpose of this Act is to:

2           (1)   Require that every dental office in which general

3           anesthesia, deep sedation, or moderate (conscious)

4           sedation is administered display and keep in a

5           conspicuous place a notice containing contact

6           information for the consumer resource center of the

7           department of commerce and consumer affairs' regulated

8           industries complaints office, so that consumers can

9           verify that the dentist is licensed and holds a

10          current and valid written authorization or permit to

11          administer anesthesia or perform sedation, request

12          prior complaint history on a dentist or dental

13          licensee, or file a complaint against a dentist or

14          dental licensee, and that information on the special

15          privilege accorded to a dentist to administer

16          anesthesia or sedation is reported by the consumer

17          resource center upon request;

18          (2)   Specify the requirements a licensed dentist must meet

19          to administer general anesthesia, deep sedation, or

20          moderate (conscious) sedation, including the

21          requirements that must be met prior to receiving a



1 written authorization or permit for the administration  
 2 of anesthesia or sedation; and  
 3 (3) Require the board of dental examiners to perform an  
 4 on-site inspection of the facility, equipment, and  
 5 personnel of a licensed dentist prior to the issuance  
 6 or renewal of a written authorization or permit to  
 7 administer general anesthesia, deep sedation, or  
 8 moderate (conscious) sedation, including a requirement  
 9 that a licensed dentist show proof of the dentist's  
 10 written authorization or permit and resuscitation  
 11 plan.

12 SECTION 2. Chapter 448, Hawaii Revised Statutes, is  
 13 amended by adding three new sections to be appropriately  
 14 designated and to read as follows:

15 "§448-A Notice to consumers. Every dentist who:  
 16 (1) Is engaged in the practice of dentistry; and  
 17 (2) Administers general anesthesia, deep sedation, or  
 18 moderate (conscious) sedation,  
 19 shall display and keep in a conspicuous place at the dentist's  
 20 place of business a notice no smaller than eight and one-half  
 21 inches by eleven inches. The notice shall explain that any



1 person may contact the consumer resource center of the  
2 department of commerce and consumer affairs' regulated  
3 industries complaints office to verify that the dentist is  
4 licensed and holds a current and valid written authorization or  
5 permit to administer anesthesia or perform sedation, request  
6 prior complaint history on a dentist, or file a complaint  
7 against a dentist, and that information on the special privilege  
8 accorded to a dentist to administer general anesthesia, deep  
9 sedation, or moderate (conscious) sedation is reported by the  
10 consumer resource center upon request. The notice shall include  
11 all available contact information for the consumer resource  
12 center, including a telephone number. The text of all  
13 information contained in the notice shall be in a font size no  
14 smaller than one-half inch. A dentist who fails to ensure the  
15 continuous display of such a notice shall be subject to the  
16 penalties provided in this chapter.

17 §448-B Administration of general anesthesia and sedation;  
18 requirements. (a) A licensed dentist shall administer general  
19 anesthesia and sedation consistent with the current guidelines  
20 and recommendations of the American Dental Association  
21 Guidelines for the Use Of Sedation and General Anesthesia by



1 Dentists; provided that for pediatric patients, a licensed  
2 dentist shall follow the American Academy of Pediatrics and  
3 American Academy of Pediatric Dentistry Guidelines for  
4 Monitoring and Management of Pediatric Patients During and After  
5 Sedation for Diagnostic and Therapeutic Procedures.

6 (b) No licensed dentist shall administer or employ another  
7 person, such as a physician or nurse anesthetist, who is  
8 otherwise qualified in this State to administer general  
9 anesthesia, deep sedation, or moderate (conscious) sedation for  
10 dental patients, unless the licensed dentist possesses a written  
11 authorization or permit from the board.

12 (c) A licensed dentist intending to produce a given level  
13 of sedation shall have the capability to rescue patients whose  
14 level of sedation becomes deeper than initially intended.

15 (d) Prior to receiving a written authorization or permit  
16 from the board to administer general anesthesia, deep sedation,  
17 or moderate (conscious) sedation, a licensed dentist shall apply  
18 to the board, pay an application fee, and submit the following:

19 (1) Proof of completion of the following educational  
20 training requirements:

21 (A) For general anesthesia and deep sedation:



1           (i) The applicant has completed an advanced  
2           dental education program, accredited by the  
3           Commission on Dental Accreditation and  
4           approved by the board, that provides  
5           comprehensive training necessary to  
6           administer deep sedation or general  
7           anesthesia and includes documented  
8           proficiency in Basic Life Support for  
9           Healthcare Providers and Advanced Cardiac  
10           Life Support or Pediatric Advanced Life  
11           Support as required pursuant to rules  
12           adopted by the board; and  
13           (ii) Evidence of the comprehensive training  
14           required under clause (i) includes but is  
15           not limited to: being a diplomate of the  
16           American Board of Oral and Maxillofacial  
17           Surgery; a fellow or member of the American  
18           Association of Oral and Maxillofacial  
19           Surgeons; or completion of an American  
20           Dental Association-accredited residency in  
21           Oral and Maxillofacial Surgery or Dental



1                   Anesthesiology, and practicing in compliance  
2                   with that training;  
3           (B) For moderate (conscious) sedation:  
4                   (i) The applicant has completed a comprehensive  
5                   training program at the postgraduate level  
6                   that meets the moderate (conscious) sedation  
7                   program objectives and content as outlined  
8                   in the current American Dental Association  
9                   Guidelines for Teaching Pain Control and  
10                   Sedation to Dentists and Dental Students;  
11                   and  
12                   (ii) The training program required under clause  
13                   (i) shall be a minimum of sixty hours of  
14                   instruction, include supervised management  
15                   of at least twenty moderate (conscious)  
16                   sedation patients with clinical experience  
17                   in managing the compromised airway and  
18                   establishment of intravenous access, and  
19                   provide current documented proficiency in  
20                   Basic Life Support for Healthcare Providers  
21                   and Advanced Cardiac Life Support or





1                   Pediatric Advanced Life Support as required  
2                   pursuant to rules adopted by the board; and

3           (C) A dentist administering general anesthesia or  
4           moderate sedation shall be required to complete  
5           the Advanced Cardiac Life Support course or, if  
6           treating pediatric patients, the Pediatric  
7           Advanced Life Support course; provided that both  
8           courses shall be completed if the dentist is  
9           treating pediatric patients and minors thirteen  
10           years or older;

11           (2) In lieu of the requirements of paragraph (1) (A) and  
12           (B), proof that the licensed dentist employs or works  
13           in conjunction with a physician who specializes in  
14           anesthesiology and is licensed pursuant to chapter  
15           453, or a certified registered nurse anesthetist, who  
16           holds a license in good standing pursuant to chapter  
17           457; provided that the physician who specializes in  
18           anesthesiology or certified registered nurse  
19           anesthetist shall remain on the premises of the dental  
20           facility until the patient is fully recovered and  
21           discharged from the facility; and



1       (3) Proof of the following facility and staff  
2       requirements: The applicant has a properly equipped  
3       facility for the administration of general anesthesia,  
4       deep sedation, or moderate (conscious) sedation  
5       staffed with a supervised team of auxiliary personnel  
6       capable of reasonably handling anesthesia procedures,  
7       problems, and emergencies incident to the  
8       administration of general anesthesia, deep sedation,  
9       or moderate (conscious) sedation; provided that the  
10       current version of the American Dental Association's  
11       Guidelines for the Use of Sedation and General  
12       Anesthesia by Dentists and the most current edition of  
13       the American Association of Oral and Maxillofacial  
14       Surgeons' Office Anesthesia Evaluation Manual are  
15       referenced as minimum standards of care; provided  
16       further that adequacy of the facility and competence  
17       of the anesthesia team may be determined by the  
18       consultants appointed by the board pursuant to section  
19       448-C(a), and as provided in rules adopted by the  
20       board.



1       (e) A licensed dentist who has received a written  
2 authorization or permit pursuant to this section to administer  
3 or employ a qualified person to administer general anesthesia,  
4 deep sedation, or moderate (conscious) sedation shall renew the  
5 authorization or permit biennially and pay a biennial fee. As a  
6 condition of renewal, the licensed dentist shall show proof of  
7 the dentist's written authorization or permit issued pursuant to  
8 this section and resuscitation plan.

9       (f) The board may, at any time, reevaluate the  
10 credentials, facilities, equipment, personnel, and procedures of  
11 a licensed dentist who has previously received a written  
12 authorization or permit from the board to determine if the  
13 dentist is still qualified to have a written authorization or  
14 permit. If the board determines that the licensed dentist is no  
15 longer qualified to have a written authorization or permit, it  
16 may revoke or refuse to renew the authorization or permit, after  
17 an opportunity for a hearing is given to the licensed dentist.

18       §448-C Inspection of facilities, equipment, and personnel.

19       (a) Prior to the issuance or renewal of a written authorization  
20 or permit pursuant to section 448-B, the board shall, in  
21 addition to other requirements established by statute or



1 administrative rule, require an on-site inspection of the  
 2 facility, equipment, and personnel to determine whether the  
 3 facility and staff requirements pursuant to section 448-B(d)  
 4 have been met. The inspection to determine whether the facility  
 5 is adequate and properly equipped may be carried out in a manner  
 6 that generally follows the guidelines, standards, requirements,  
 7 and basic principles as described in the most current edition of  
 8 the American Association of Oral and Maxillofacial Surgeons'  
 9 Office Anesthesia Evaluation Manual. The inspection and  
 10 evaluation shall be carried out by a team of consultants  
 11 appointed by the board.

12 (b) Written authorizations and permits subject to section  
 13 448-B shall be issued only to those applicants whose facilities,  
 14 equipment, and personnel have been deemed adequate pursuant to  
 15 this section."

16 SECTION 3. No later than July 1, 2018, the board of dental  
 17 examiners shall adopt rules, pursuant to chapter 91, Hawaii  
 18 Revised Statutes, to effectuate the purposes of this Act.

19 SECTION 4. In codifying the new sections added by section  
 20 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating  
2 the new sections in this Act.

3 SECTION 5. New statutory material is underscored.

4 SECTION 6. This Act shall take effect on July 1, 2017.



**Report Title:**

Dentistry; Anesthesia; Sedation; Inspections; "Finley's Law"

**Description:**

Requires dentists who administer anesthesia or sedation to post contact information to verify licensure and authorization to administer anesthesia and sedation. Specifies requirements, including inspections, for written authorization or permit to administer anesthesia or sedation. (HB561 CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

