

HB

221

HD1

A BILL FOR AN ACT

RELATING TO DENTAL ASSISTANTS.

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

1 SECTION 1. The board of dental examiners shall adopt rules
2 pursuant to chapter 91, Hawaii Revised Statutes, to establish a
3 regulatory structure for the regulation of dental assistants in
4 Hawaii via the following certification options that shall
5 establish educational criteria and permitted duties:

- 6 (1) Basic-dental assistants; and
7 (2) Certified dental assistants, who shall have:
8 (A) Graduated from high school or earned a general
9 equivalency diploma; and
10 (B) Successfully passed a certification examination
11 approved by the board of dentistry.

12 SECTION 2. No later than twenty days prior to the
13 convening of the regular session of 2020, the board of dentistry
14 shall submit to the legislature a report detailing the progress
15 of the rules adopted pursuant to section 1 of this Act.

16 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

Dental Assistants; Minimum Requirements; Certifications; Report

Description:

Requires the Board of Dentistry to adopt rules for the regulation of dental assistants using certification options based on education level and permitted duties. Requires the Board to report to the legislature. (HB221 HD1)

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



Testimony of the Board of Dentistry

**Before the
House Committee on Consumer Protection and Commerce
Wednesday, February 20, 2019
2:00 p.m.
State Capitol, Conference Room 329**

**On the following measure:
H.B. 221, H.D. 1, RELATING TO DENTAL ASSISTANTS**

Chair Takumi and Members of the Committee:

My name is Paul Guevara, D.M.D., M.D.S., and I am the Chairperson of the Board of Dentistry (Board). The Board supports this bill.

The purposes of this bill are to: (1) require the Board to adopt rules for the regulation of dental assistants using certification options based on education level and permitted duties; and (2) require the Board to report to the Legislature no later than twenty days prior to the convening of the Regular Session of 2020, detailing the progress of the rules adopted pursuant to section 1 of the bill.

The Board supports statutory changes to establish a logical tiered approach to the regulation of dental assistants at all levels, as recommended by the Auditor's January 2018 report. This tiered approach would be an improvement over the current system, and public health would not be put at any undue risk. In addition, the Board requests that it be provided an appropriate amount of time to discuss with stakeholders the promulgation of its rules.

Lastly, for the Committee's information, representatives from the Hawaii Dental Association, the Hawaii Dental Hygienists Association, Kapiolani Community College Dental Assisting Program, and the Department of Commerce and Consumer Affairs met on February 15, 2019, to discuss this bill. All parties relayed that they did not object to the concept of the bill. However, several members in attendance at that meeting expressed their desire to be directly involved in any discussions of the Board's promulgation of its rules.

Thank you for the opportunity to testify on this bill.



Testimony in Support of HB 221 HD1, Relating to Dental Assistants

Ellie Kelley-Miyashiro, RDH, BS

Hawaii Dental Hygienists' Association Past President/Regulations and Practice Chairperson
2018-2019

February 18, 2019

Dear Chair Takumi and members of the COMMITTEE ON CONSUMER PROTECTION & COMMERCE:

The Hawaii Dental Hygienists' Association (HDHA) supports the intent of **HB 221 HD1**. We applaud your leadership in initiating this important safety measure during the 2019 legislative session.

Currently, dental assistants in Hawai'i do not need any specific education or other qualifications and are unregulated by the State. In Hawai'i, Dental Assistants are identified in statute and administrative rule as unlicensed auxiliary personnel who perform supportive dental procedures under the direct supervision, direction, evaluation, and responsibility of a licensed dentist. Training for dental assistant duties is typically done on-the-job by the supervising dentist and/or another assistant, and varies from office to office and from dentist to dentist. This "on-the-job" method of training creates patient dental care with little, to no standardization. It also creates an environment where dental assistants can risk public safety and practice beyond their allowable duties, due to the absence of, or limited knowledge of, the Hawaii Revised Statutes and Hawaii Administrative Rules.

It has been determined by the State auditor that several tasks, routinely performed by dental assistants in Hawai'i, can and do pose a reasonable risk of injury to patients. Tasks such as, proper infection control and sterilization, radiation exposure, use of sharp instruments to remove excess cement or other materials within the mouth, or possible aspiration while taking intraoral impressions, all pose some risk to patients. Because of this risk, HDHA believes all Dental Assistants should be uniformly trained and certified via the Dental Assisting National Board or another means measurable by the State, creating a way to monitor this important profession.

HDHA does have concerns with **HD1** regarding a tiered approach with employing a Basic Level dental assistant. We feel this would still allow for an "on-the-job" approach to training a new dental assistant, which would be a similar scenario to what is currently happening. If no legal requirement is set in place to require standardized training for all dental assistants, we feel no real change will occur. The intent of this measure is clearly to increase public safety, so to allow a "same case scenario" is not an effective use of legislators' time nor is it in the best interest of the public.

Addressing concerns brought forward by the Hawaii Board of Dentistry and the Kapiolani Community College Dental Assisting program, HDHA feels a high school externship for dental assistants would be considered an extension of a university educational setting and would not be a paid position, thus excluding the need for certification. Once a student has completed their externship and chooses to become a paid employee as a dental assistant, certification would be



required.

HDHA thanks you for your time and consideration of **HB 221 HD1**. As always, The Hawaii Dental Hygienists' Association would like to convey our core desire that dentists, hygienists and dental assistants continue to be integral members of the oral health team, and feel that the public is best served and protected when all members of the Oral Health workforce are properly trained, certified and regulated. Thank you for your consideration.



Dental Assisting National Board, Inc.

Measuring Dental Assisting Excellence®

Testimony on House Bill 221 HD 1, Relating to Dental Assistants

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February 19, 2019

The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
House Committee on Consumer Protection and Commerce
30th Legislature, 2019
Hawaii State Capitol

Dear Chair Takumi, Vice Chair Ichiyama, and Distinguished Members of the Committee:

I am submitting written testimony on behalf of the Dental Assisting National Board, Inc. (DANB) in connection with HB 221 (HD1), which seeks to establish a tiered structure for regulation of dental assistants in Hawai'i. DANB is the national certification board for dental assistants and administers a series of certification programs for dental assistants, including the nationally recognized Certified Dental Assistant™ (CDA®) certification. DANB would like to request a minor amendment that will help clarify a potential area of confusion for dental assistants, their employers and the public.

I would first like to present the proposed amended text and then provide an explanation of our reasons for requesting this amendment.

Proposed amendments (additions underlined; deletions in ~~strike through~~):

SECTION 1. The board of dental examiners shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes, to establish a regulatory structure for the regulation of dental assistants in Hawaii via the following certification options that shall establish educational criteria and permitted duties:

- (1) Basic-dental assistants; and
- (2) ~~Certified~~ Qualified dental assistants, who shall have:
 - (A) Graduated from high school or earned a general equivalency diploma; and
 - (B) Successfully passed a certification examination approved by the board of dentistry.

SECTION 2. No later than twenty days prior to the convening of the regular session of 2020, the board of dentistry shall submit to the legislature a report detailing the progress of the rules adopted pursuant to section 1 of this Act.

SECTION 3. This Act shall take effect on July 1, 2050.

Explanation

As noted above, DANB administers the nationally recognized Certified Dental Assistant™ (CDA®) certification program; DANB and its predecessors have used the marks “Certified Dental Assistant” and “CDA” continuously since 1948. DANB has trademark rights in the mark “Certified Dental Assistant” and holds a federal trademark registration for the certification mark “CDA,” and no individual may legally use these marks without DANB’s permission.

The bill, as currently drafted, would designate second-tier dental assistants, who must pass a certification examination approved by the board of dentistry, as “certified dental assistants.” The bill does not specify that the required certification will be DANB’s Certified Dental Assistant certification. If the board of dentistry chooses to approve any certification examination other than DANB’s Certified Dental Assistant exam, this could lead dental assistants who do not hold DANB’s Certified Dental Assistant certification to believe, incorrectly, that they are entitled to use the marks Certified Dental Assistant and CDA. As a trademark owner, DANB is obligated under U.S. trademark law to enforce against unauthorized use of its marks. We do not want to see dental assistants in the second tier in Hawai’i find themselves the subjects of DANB’s trademark enforcement activities because they incorrectly believed that they are allowed to call themselves “Certified Dental Assistants” or to abbreviate this to “CDA.” Moreover, we believe it would be misleading to employers, dental team members, and the public if dental assistants who do not hold DANB’s CDA certification are holding themselves out as “Certified Dental Assistants,” because this mark is very closely associated with DANB among dental professionals, due to DANB’s longstanding use of this mark since 1948.


DANB submitted testimony to the CPC Committee in connection with a similar bill in the 2018 legislative session (2018 HB 2207) about our concerns over the confusing use of the term “certified dental assistant” for second-tier dental assistants in Hawai’i, and we recommended replacing the word “certified” with the word “qualified.” We thank Chair Takumi, Vice Chair Ichiyama and the committee members for accepting that recommendation and ensuring that the bill that advanced forward was free of potentially confusing terminology. We are hopeful that the same amendment can be made to the current bill, HB 221 HD1, to prevent any potential for confusion.

We are also hopeful that the State of Hawai’i will consider using DANB’s CDA certification for competence measurement of dental assistants and that the nationally recognized CDA certification will be recognized either in statute or regulation as a means for dental assistants to qualify to perform the duties that will be allowed for second-tier assistants. If Hawai’i chooses to recognize DANB’s CDA certification, Hawai’i will join 38 other states, along with the District of Columbia, the U.S. Air Force, and the Department of Veterans Affairs, in recognizing or requiring DANB exams for performance of dental assisting duties. DANB’s CDA certification program is nationally accredited by the National Commission for Certifying Agencies and internationally accredited to the ISO 17024 standard.

Please do not hesitate to contact me if there are any questions about the foregoing. I can be reached at klandsberg@danb.org or 312-280-3431.

Thank you for the opportunity to provide testimony, and for your consideration.

Sincerely,


Katherine Landsberg
Director, Government Relations



Hawaii Dental Association

To: The House Committee on Consumer Protection & Commerce
Time/Date: 2:00 p.m., February 20, 2019
Location: Capitol Conference Room 329
Re: HB 221, HD 1 Relating to Dental Assistants

Aloha Chair Takumi, Vice Chair Ichiyama, and members of the committee:

The Hawaii Dental Association (HDA) is a statewide professional membership organization comprised of approximately 950-member dentists. HDA and its members are committed to protecting the oral health and well-being of the people of Hawaii, from keiki to kupuna and everyone in between.

HB 221, HD 1, establishes a tiered approach and framework of minimum qualifications for dental assistants. In January 2018, the State's legislative auditor finalized a report which recommended that the State consider a "tiered regulatory framework" for dental assistants. The auditor's report noted that such tiered regulatory frameworks have been adopted by many other states and provided examples of them. HDA is committed to advance the oral health of Hawaii residents and has participated along with dozens of stakeholders in the formation of the state's oral health strategic plan. We therefore support the intent of this measure and wish to be part of ongoing public conversations concerning its implementation provisions.

Thank you for the opportunity to testify in support of this measure.

Petition to Submit Testimony in Support of HB221 HD1

<p>Petition summary and background:</p>	<p>As Registered Dental Hygienists in the state of Hawaii, we SUPPORT HB221 HD1. In State Statute, Dental Assistants have clearly delineated allowable/prohibited duties, but no regulation or licensing of Dental Assistants is required in the state of Hawaii. The majority of Hawaii Dental Assistants are trained on the job by other Dental Assistants or their supervising Dentist.</p> <p>According to the State auditor, several duties routinely performed by Dental Assistants in Hawaii can and do pose a reasonable risk of injury to patients. Because of this risk, we believe Dental Assistants should be uniformly trained and certified via the Dental Assisting National Board or another means measurable by the State. We feel the proposed basic-level Dental Assistant option should NOT be included in order to have standardized training of all Dental Assistants in the State of Hawaii.</p> <p>Upon completion of certification, the State can then properly regulate licenses.</p>
<p>Action petitioned for:</p>	<p>We, the undersigned, are concerned citizens who urge our leaders to act now to Support HB221 HD1 requesting the Board of Dentistry to adopt rules requiring certification of dental assistants by the Dental Assisting National Board or other State-approved certification for the public's safety.</p>

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