



House
Legislative
Analysis
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DENTAL HYGIENIST BOARD

House Bill 4657 (Substitute H-2)
First Analysis (9-28-93)

Sponsor: Rep. Tracey Yokich
Committee: Public Health

THE APPARENT PROBLEM:

Currently, the board of dentistry regulates dentists, dental assistants, and dental hygienists. The board consists of thirteen voting members: seven dentists, two dental hygienists, two dental assistants, and two public members. At the request of the Michigan Dental Hygienists' Association, legislation has been introduced that would create a board of dental hygiene that was separate from the board of dentistry.

THE CONTENT OF THE BILL:

The bill would amend the Public Health Code to create a board of dental hygiene, separate from the board of dentistry. The bill also would explicitly add that boards or task forces couldn't promulgate rules that modified (expanded or constricted) the scope of practice definition for the health profession governed by that board or task force. Finally, the bill would increase the number of public members on the board of dentistry by two, for a total of four public members.

The Michigan Board of Dental Hygiene. The bill would create a nine-member board of dental hygiene, consisting of five dental hygienists and four public members. Board meeting times would have to be agreed to by a vote of at least five board members.

The board would issue dental hygienist's licenses only to individuals who had graduated from a nationally-accredited, board-approved two-year dental hygiene program. A dental hygienist's license would be valid until its expiration date, and would be renewed if the applicant met all of the conditions for renewal.

Administrative rules. Unless amended or rescinded by the board of hygiene, rules promulgated by the board of dentistry pertaining to the practice of dental hygiene would remain in effect. After the

bill took effect, the board of hygiene would enforce rules described in the bill.

Practice of dental hygiene. Currently, the health code defines "practice as a dental hygienist" to mean "practice at the assignment of a dentist in that specific area of dentistry based on specialized knowledge, formal education, and skill, with particular emphasis on preventive services and oral health education." ("Assignment" means that a dentist has assigned a patient of record for certain services described by the dentist.) The bill would keep this definition and the existing definition of "assignment," but would add that the assigning dentist wouldn't have to be physically present in the treatment room when a dental hygienist performed the assigned services.

The bill would prohibit the practice (or alternative practice) of dental hygiene without a license, and would restrict "deep scaling, root planing, and the removal of calcareous deposits" to licensed dentists and licensed dental hygienists. The bill also would require dental hygienists to comply with infection control standards established by the Occupational Safety and Health Administration and approved by the board (or other infection control guidelines promulgated or approved by the board). Dental hygienists would be prohibited from discriminating against or refusing, denying, or withholding professional services from people infected with hepatitis B or by the human immunodeficiency virus (HIV).

Alternative practice of dental hygiene. The bill would define the "alternative practice of dental hygiene" to mean the practice of dental hygiene, with the board's approval and in compliance with the board's rules, under the supervision of a licensed dentist in one or more of the following settings:

* programs for "dentally underserved populations" conducted by a health agency that received direct

financial support from the state or federal government;

- * as a staff member of a licensed health facility or agency; or

- * in the residences of homebound people, upon authorization by a dentist or physician, for dental hygiene services.

"Supervision" by a licensed dentist would be defined by reference to an existing section of the health code [333.16625(4)]. That is, it would mean "the overseeing of or participation in the work of" a licensed dentist in which one or more of the following existed:

- (a) "The continuous availability of direct communication in person or by radio, telephone, or telecommunication between" the dental hygienist and the dentist;

- (b) "The availability of" a dentist "on a regularly scheduled basis to review the practice of the [dental hygienist], to provide consultation to [the dental hygienist], to review records, and to further educate the [dental hygienist] in the performance of [his or her] functions."

- (c) "The provision by the licensed [dentist] of predetermined procedures and drug protocol."

MCL 333.16131 et al.

BACKGROUND INFORMATION:

According to the Michigan Dental Hygienists' Association, in order to be licensed a dental hygienist must have successfully completed an accredited dental hygiene program (which at a minimum is a two-year college program, though the majority of dental hygienists complete three years of college credits) and passed both a national examination and a regional board comprehensive and clinical examination. A licensed dental hygienist is called a "registered dental hygienist" or "RDH." A dental assistant, in contrast, is not required to become licensed in Michigan unless he or she performs specific services and functions. A non-licensed dental assistant may perform basic supportive procedures under the supervision of a dentist. In order to perform other services or functions detailed in law (including placing a temporary filling, and placing and removing rubber

dams), an individual must be licensed as a "registered dental assistant" ("RDA") by completing an accredited dental assistant's course (typically less than a one-year program), and passing a state board administered comprehensive and clinical examination.

FISCAL IMPLICATIONS:

Fiscal information is not available. But according to the Office of Health Services in the Department of Commerce, the costs to the state would consist primarily of reimbursement to board members for board meetings, which currently average \$60 to \$70 per board member per meeting (a \$50 per diem plus mileage and meals), though for board members from the Upper Peninsula this could be as high as \$300 per member per meeting (because of the distance traveled and the costs of lodging). (9-28-93)

ARGUMENTS:

For:

Proponents of the bill argue that having a single, dentist-dominated board governing not only dentists but also dental hygienists and dental assistants -- both of whom are employed by dentists -- constitutes a conflict of interest. In addition, although reportedly there are about as many dental hygienists as there are dentists in the state, the board of dentistry has seven dentists but only two dental hygienists, which gives dental hygienists proportionally less representation on the board than their numbers would seem to justify. Dental hygienists also do not have full voting privileges on the current board of dentistry: dental hygiene members reportedly cannot vote on issues affecting dentists, though dentists can -- and do -- vote on issues affecting dental hygienists and public members, who may have little or no expertise in the area of dental hygiene, can vote on all issues before the board. Finally, despite the \$85,530 that dental hygienists paid last year in license fees, proponents of the bill argue that the practice of dental hygiene and issues related to preventive oral health care services receive little attention from the existing board, partly because the board is swamped with issues arising in relation just to dentistry and its subspecialties and partly because a dentist-dominated board views dental hygiene issues as "auxiliary" and less important than dentist-related issues. One example given is that it took the existing board thirteen years to adopt Michigan

Dental Hygienists' Association-proposed rule changes to mandate continuing education for relicensure of dental hygienists.

Against:

Opponents of the bill argue that establishing a separate board for dental hygienists is simply the first step in the expansion of dental hygienists' scope of practice, and, eventually, of course, to higher health care costs. In fact, one of the objections raised by opponents of the bill is that it would open the door to independent practice for dental hygienists. Finally, opponents say that at the very least, the bill would increase costs to the state by increasing the regulatory bureaucracy.

Response:

In response, proponents of the bill point out that the bill would neither increase the scope of practice of dental hygienists (scope of practice cannot be increased by board-promulgated rules but only by new legislation) nor lead to independent practice by dental hygienists. A form of independent practice, called "contractual practice," already is legal in Michigan. Under this kind of practice, dental hygienists can own their own dental or dental hygiene practice so long as they contract with a dentist to provide the initial examination and treatment planning required by law. The bill would provide for self-regulation, but would not increase (or establish new forms of) independent practice. Dental hygienists would continue to provide services only to patients who had first been examined by a licensed dentist and for whom the dentist had established a treatment plan. (It also might be pointed out that this fear -- of independent practice by dental hygienists -- supports the view of proponents of the bill that the existing board of dentistry in fact serves to protect the interests of dentists, as employers of dental hygienists, over that of patients and of dental hygienists.) Finally, proponents of the bill point out that dental hygienists have been required to be licensed since 1923, and therefore already are regulated by the state. The bill would create a new regulatory board, which would place additional demands on the state. But proponents also argue that the dental hygiene profession, which reportedly ranks as the fifth largest group of licensed health professionals in the state (reportedly there currently are 7,271 dental hygienists -- and 7,743 dentists -- in the state), already is paying for such regulation -- but in fact is not receiving adequate regulation because of the composition of the board currently regulating dental hygienists. It also should be pointed out that it is a

recognized fact that the regulated health professions currently are not adequately regulated in part because license and registration fees are not "dedicated" to regulation of the professions from which the fees are collected. That is, the fees are collected supposedly in order to regulate the health professions, but the appropriations for regulating the health professions virtually never match the fees collected for their regulation. In this sense, then, the bill might well increase the amount of money the state would have to spend on regulation, but it is likely that the fees currently being collected would in fact pay for this regulation (and it should be pointed out that the state already is paying for two dental hygienists on the board of dentistry).

Against:

Reportedly, there are no other states that have separate boards for dental hygienists, and the state dental association opposes separate boards. Michigan should remain with all of the other states on this issue.

Response:

Reportedly this bill is part of a national movement to establish separate boards for dental hygienists, so Michigan could be on the cutting edge of dental hygiene regulation if the bill is enacted. Ironically, the dental hygienists now are in the position that dentists were years ago, when dentists were regulated under the board of medicine. Not only did dentists manage to get their own board separate from that of physicians, but so too did nurses. The only other licensed health professionals who do not have their own boards are dental assistants (see BACKGROUND INFORMATION) and licensed practical nurses (who are regulated under the board of nursing). It is well past time for dental hygienists, whose position in dentistry is comparable to that of nurses in medicine, to have their own regulatory board.

POSITIONS:

The Michigan Dental Hygienists' Association supports the bill. (9-28-93)

A representative from the Michigan Association of Dentistry for the Handicapped testified in support of the bill. (7-6-93)

The Wolverine Dental Hygienists Society (composed primarily of African-American dental hygienists practicing in Michigan) wrote a letter in support of the bill. (7-6-93)

The Dental Program Coordinator of the County of Ottawa Health Department wrote a letter in support of the bill. (5-18-93)

The Michigan Dental Association opposes the bill. (9-23-93)

A representative of the Board of Occupational and Professional Regulation in the Department of Commerce testified in opposition to the bill. (7-6-93)