



HOUSE BILL No. 4882

May 18, 1995, Introduced by Reps. London, Willard, DeMars, Alley, Hertel, Hanley, Geiger, Oxender, Johnson, Bodem, Munsell, LeTarte, Goschka, Weeks, Rhead, Dobronski, Hill, McNutt, Jaye, Lowe, Gernaat, Gubow, Galloway, Cherry, Randall, Clack, Martinez, Middaugh, Yokich, Anthony, Dobb, Cropsey, Leland, Bobier, Dolan, McBryde, Porreca, Baade, Berman, Gire, Stallworth, Owen, Freeman, Pitoniak, Ciaramitaro, Bennane, Gagliardi, Mathieu, Gustafson, Tesanovich, Llewellyn, Agee, Wallace, Schroer, Parks, Wetters, Jersevic, Law, Emerson, Kilpatrick and Olshove and referred to the Committee on Health Policy.

A bill to amend sections 16131, 16145, 16601, 16611, 16621, and 16625 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

sections 16131 and 16145 as amended by Act No. 80 of the Public Acts of 1993 and section 16625 as amended by Act No. 58 of the Public Acts of 1991, being sections 333.16131, 333.16145, 333.16601, 333.16611, 333.16621, and 333.16625 of the Michigan Compiled Laws; and to add part 165.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 16131, 16145, 16601, 16611, 16621, and
2 16625 of Act No. 368 of the Public Acts of 1978, sections 16131
3 and 16145 as amended by Act No. 80 of the Public Acts of 1993 and
4 section 16625 as amended by Act No. 58 of the Public Acts of
5 1991, being sections 333.16131, 333.16145, 333.16601, 333.16611,

1 333.16621, and 333.16625 of the Michigan Compiled Laws, are
 2 amended and part 165 is added to read as follows:

3 Sec. 16131. The terms of office of individual members of
 4 the council or the boards and task forces, except those appointed
 5 to fill vacancies, ~~shall~~ expire 4 years after appointment as
 6 follows:

7	Nursing	June 30
8	Optometry	June 30
9	Pharmacy	June 30
10	Podiatric medicine and surgery	June 30
11	Dentistry	June 30
12	DENTAL HYGIENE	JUNE 30
13	Chiropractic	December 31
14	Counseling	June 30
15	Medicine	December 31
16	Occupational therapists	December 31
17	Osteopathic medicine and surgery	December 31
18	Physical therapy	December 31
19	Psychology	December 31
20	Sanitaricians	December 31
21	Veterinary medicine	December 31

22 Sec. 16145. (1) A board may adopt and have an official
 23 seal.

24 (2) A board or task force may promulgate rules necessary or
 25 appropriate to fulfill its functions as prescribed in this
 26 article. A BOARD OR TASK FORCE SHALL NOT PROMULGATE RULES THAT

1 EXPAND, CONSTRICT, OR OTHERWISE MODIFY THE SCOPE OF PRACTICE
2 DEFINITION FOR THE HEALTH PROFESSION GOVERNED BY THAT BOARD OR
3 TASK FORCE.

4 (3) Only a board or task force shall promulgate rules to
5 specify requirements for licenses, registrations, renewals, exam-
6 inations, and required passing scores.

7 PART 165. DENTAL HYGIENE

8 SEC. 16501. (1) AS USED IN THIS PART:

9 (A) "ALTERNATIVE PRACTICE OF DENTAL HYGIENE" MEANS THE PRAC-
10 TICE OF DENTAL HYGIENE BY A DENTAL HYGIENIST PURSUANT TO SECTION
11 16625(2).

12 (B) "ASSIGNMENT" MEANS THAT A DENTIST HAS DESIGNATED A
13 PATIENT OF RECORD UPON WHOM SERVICES ARE TO BE PERFORMED BY A
14 DENTAL HYGIENIST AND HAS DESCRIBED THE PROCEDURES TO BE
15 PERFORMED. THE DENTIST NEED NOT BE PHYSICALLY PRESENT IN THE
16 OFFICE OR IN THE TREATMENT ROOM AT THE TIME THE PROCEDURES ARE
17 BEING PERFORMED.

18 (C) "DENTAL HYGIENIST" MEANS AN INDIVIDUAL LICENSED UNDER
19 THIS PART TO ENGAGE IN THE PRACTICE OF DENTAL HYGIENE.

20 (D) "PRACTICE OF DENTAL HYGIENE" MEANS PRACTICE AT THE
21 ASSIGNMENT OF A DENTIST IN THAT SPECIFIC AREA OF DENTISTRY BASED
22 ON SPECIALIZED KNOWLEDGE, FORMAL EDUCATION, AND SKILL WITH PAR-
23 TICULAR EMPHASIS ON PREVENTIVE SERVICES AND ORAL HEALTH
24 EDUCATION.

25 (E) "SUPERVISION" MEANS THAT TERM AS DEFINED IN
26 SECTION 16625(4).

1 (2) IN ADDITION, ARTICLE 1 CONTAINS GENERAL DEFINITIONS AND
2 PRINCIPLES OF CONSTRUCTION APPLICABLE TO ALL ARTICLES IN THIS
3 CODE AND PART 161 CONTAINS DEFINITIONS APPLICABLE TO THIS PART.

4 SEC. 16503. THE MICHIGAN BOARD OF DENTAL HYGIENE IS CREATED
5 IN THE DEPARTMENT. THE BOARD CONSISTS OF THE FOLLOWING 9 VOTING
6 MEMBERS WHO SHALL MEET THE REQUIREMENTS OF PART 161: 5 DENTAL
7 HYGIENISTS AND 4 PUBLIC MEMBERS. THE BOARD MEETING DATES AND
8 TIMES SHALL BE CONCURRED IN BY A VOTE OF NOT LESS THAN 5 BOARD
9 MEMBERS.

10 SEC. 16505. UNLESS AMENDED OR RESCINDED BY THE BOARD, RULES
11 PROMULGATED ON OR BEFORE THE EFFECTIVE DATE OF THIS PART BY THE
12 MICHIGAN BOARD OF DENTISTRY UNDER SECTION 16625 AND PERTAINING TO
13 THE PRACTICE OF DENTAL HYGIENE REMAIN IN FULL FORCE AND EFFECT.
14 AFTER THE EFFECTIVE DATE OF THIS PART, THE MICHIGAN BOARD OF
15 DENTAL HYGIENE SHALL ENFORCE THE RULES DESCRIBED IN THIS SECTION.

16 SEC. 16507. (1) AN INDIVIDUAL SHALL NOT ENGAGE IN THE PRAC-
17 TICE OF DENTAL HYGIENE OR IN THE ALTERNATIVE PRACTICE OF DENTAL
18 HYGIENE UNLESS LICENSED OR OTHERWISE AUTHORIZED BY THIS ARTICLE.

19 (2) DEEP SCALING, ROOT PLANING, AND THE REMOVAL OF CALCAR-
20 EOUS DEPOSITS SHALL BE PERFORMED ONLY BY AN INDIVIDUAL LICENSED
21 UNDER THIS ARTICLE AS A DENTAL HYGIENIST OR A DENTIST.

22 (3) THE BOARD SHALL NOT ISSUE A LICENSE UNDER THIS PART TO
23 AN INDIVIDUAL UNLESS THAT INDIVIDUAL IS A GRADUATE OF A DENTAL
24 HYGIENE PROGRAM WITH A MINIMUM OF 2 ACADEMIC YEARS OF CURRICULUM
25 PROVIDED IN A COLLEGE OR INSTITUTION OF HIGHER EDUCATION, WHICH
26 PROGRAM IS ACCREDITED BY A NATIONAL AGENCY RECOGNIZED BY THE

1 COUNCIL ON POSTSECONDARY ACCREDITATION OR THE UNITED STATES
2 DEPARTMENT OF EDUCATION AND IS APPROVED BY THE BOARD.

3 (4) A DENTAL HYGIENIST'S LICENSE ISSUED BY THE MICHIGAN
4 BOARD OF DENTISTRY IS VALID UNTIL ITS EXPIRATION DATE. THE
5 HOLDER OF A LICENSE DESCRIBED IN THIS SUBSECTION SHALL APPLY FOR
6 RENEWAL OF THE LICENSE WITH THE MICHIGAN BOARD OF DENTAL
7 HYGIENE. THE MICHIGAN BOARD OF DENTAL HYGIENE SHALL RENEW THE
8 LICENSE IF THE APPLICANT MEETS ALL OF THE CONDITIONS FOR RENEWAL.

9 SEC. 16509. (1) A DENTAL HYGIENIST SHALL NOT KNOWINGLY FAIL
10 TO COMPLY WITH THE INFECTION CONTROL STANDARDS ESTABLISHED BY THE
11 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION OR THE MICHIGAN
12 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION AND APPROVED BY THE
13 BOARD.

14 (2) A DENTAL HYGIENIST SHALL NOT REFUSE, WITHHOLD FROM,
15 DENY, OR DISCRIMINATE AGAINST AN INDIVIDUAL WITH REGARD TO PRO-
16 VIDING PROFESSIONAL SERVICES THE LICENSEE IS LICENSED AND QUALI-
17 FIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV INFECTED OR HBV
18 INFECTED.

19 (3) AS USED IN THIS SECTION:

20 (A) "HBV" MEANS HEPATITIS B VIRUS.

21 (B) "HBV INFECTED" MEANS EITHER OF THE FOLLOWING:

22 (i) THE STATUS OF AN INDIVIDUAL WHO IS TESTED AS
23 HBeAg-POSITIVE.

24 (ii) THE STATUS OF AN INDIVIDUAL WHO HAS TESTED
25 HBsAg-POSITIVE ON NOT LESS THAN 2 OCCASIONS THAT WERE NOT LESS
26 THAN 6 MONTHS APART OR WHO HAS TESTED HBsAg-POSITIVE AND
27 IgM-NEGATIVE ON A SINGLE SERUM SPECIMEN.

1 (C) "HIV INFECTED" MEANS THAT TERM AS DEFINED IN
2 SECTION 5101.

3 Sec. 16601. (1) As used in this part:

4 (a) "Assignment" means that a dentist has designated a
5 patient of record upon whom services are to be performed and has
6 described the procedures to be performed. The dentist need not
7 be physically present in the office or in the treatment room at
8 the time the procedures are being performed.

9 (b) "Dental laboratory" means a dental workroom operated as
10 a part of a dental office or otherwise, by a person, other than a
11 dentist, who is engaged in, or holds himself, herself, or itself
12 out as being directly or indirectly engaged in, constructing,
13 repairing, or altering prosthetic dentures, bridges, orthodontic
14 or other appliances, or structures to be used as substitutes for
15 or as a part of human teeth or jaws or associated structures, or
16 for the correction of malocclusions or deformities.

17 (c) "Dentist" means an individual licensed under this arti-
18 cle to engage in the practice of dentistry.

19 (d) "Practice of dentistry" means the diagnosis, treatment,
20 prescription, or operation for a disease, pain, deformity, defi-
21 ciency, injury, or physical condition of the human tooth, teeth,
22 alveolar process, gums or jaws, or their dependent tissues, or an
23 offer, undertaking, attempt to do, or holding oneself out as able
24 to do any of these acts.

25 (e) "Practice as a dental assistant" means assistance in the
26 clinical practice of dentistry based on formal education,

1 specialized knowledge, and skill at the assignment and under the
2 supervision of a dentist.

3 ~~-(f) "Practice as a dental hygienist" means practice at the~~
4 ~~assignment of a dentist in that specific area of dentistry based~~
5 ~~on specialized knowledge, formal education, and skill with par-~~
6 ~~ticular emphasis on preventive services and oral health~~
7 ~~education.~~

8 (2) In addition, article 1 contains general definitions and
9 principles of construction applicable to all articles in this
10 code and part 161 contains definitions applicable to this part.

11 Sec. 16611. (1) A person shall not engage in the practice
12 of dentistry ~~, the practice as a dental hygienist, or the~~
13 ENGAGE IN practice as a dental assistant unless licensed or oth-
14 erwise authorized by this article.

15 (2) Deep scaling, root planing, and the removal of calcar-
16 eous deposits ~~may only~~ SHALL be performed ONLY by ~~individuals~~
17 AN INDIVIDUAL licensed UNDER THIS ARTICLE as a dental hygienist
18 or a dentist.

19 Sec. 16621. (1) The Michigan board of dentistry is created
20 in the department. The board shall consist of the following 13
21 voting members who shall meet the requirements of part 161: 7
22 dentists, ~~2 dental hygienists,~~ 2 dental assistants, and ~~2~~ 4
23 public members. The board meeting dates and times shall be con-
24 curred in by a vote of not less than 10 board members. Not more
25 than 1 member of the board may be a dental school faculty
26 member.

1 ~~(2) The dental assistants first appointed to the board~~
 2 ~~shall be graduates of a dental assisting program accredited by~~
 3 ~~the commission on accreditation of the American dental~~
 4 ~~association. This subsection shall expire 3 years after the~~
 5 ~~effective date of this article.~~

6 ~~(3) The requirement of section 16135(d) that a board member~~
 7 ~~shall have practiced that profession for 2 years immediately~~
 8 ~~before appointment is waived for 2 years after the effective date~~
 9 ~~of this part for members of the board licensed as dental assist-~~
 10 ~~ants by this part.~~

11 (2) ~~(4)~~ A board member licensed to practice as ~~a dental~~
 12 ~~hygienist or~~ a dental assistant shall vote as an equal member in
 13 all matters except those designated in section 16148(1) or (2)
 14 ~~which~~ THAT apply to dentists and not to ~~dental hygienists or~~
 15 dental assistants.

16 (3) THE TERMS OF THE MEMBERS OF THE MICHIGAN BOARD OF DEN-
 17 TISTRY WHO ARE DENTAL HYGIENISTS EXPIRE ON THE EFFECTIVE DATE OF
 18 THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.

19 Sec. 16625. (1) The board may promulgate rules to prohibit
 20 or otherwise restrict the assignment of procedures to ~~a dental~~
 21 ~~hygienist or~~ a dental assistant if the board determines that the
 22 assignment constitutes or may constitute a danger to the health,
 23 safety, or welfare of the patient or the public.

24 (2) Notwithstanding section ~~16601(1)(f)~~ 16501(1)(D) or the
 25 rules promulgated under subsection (1), a dental hygienist may
 26 perform dental hygiene services under the supervision of a
 27 dentist as part of a program for dentally underserved populations

1 in this state conducted by a local, state, or federal grantee
2 health agency for patients who are not assigned by a dentist.
3 The director of public health shall designate a person as a
4 grantee health agency for a 2-year period if the person applies
5 to the department of public health on a form provided by the
6 department of public health and meets all of the following
7 requirements:

8 (a) Is a public or nonprofit agency administering a program
9 of dental care to a dentally underserved population.

10 (b) Obtains more than 50% of its total revenue from public
11 or nonprofit organization sources.

12 (c) Employs or contracts with at least 1 dentist and 1
13 dental hygienist.

14 (d) Is not associated with a private dental practice or an
15 incorporated dental service provider whose only source of state
16 or federal funding is reimbursement under the program for medical
17 assistance administered by the department of social services
18 under the social welfare act, Act No. 280 of the Public Acts of
19 1939, being sections 400.1 to ~~400.121~~ 400.119B of the Michigan
20 Compiled Laws.

21 (e) Submits a program overview indicating the approximate
22 population to be served, the method by which the service is to be
23 provided, and the procedures for program oversight and
24 direction.

25 (3) The director of public health may appoint an advisory
26 committee to assist the director of public health in designating
27 grantee health agencies under subsection (2). If the director of

1 public health does appoint an advisory committee under this
2 subsection, the director of public health shall include on the
3 advisory committee, at a minimum, a representative from the
4 Michigan dental hygienist association or its successor organiza-
5 tion and a representative from the Michigan dental association or
6 its successor organization.

7 (4) As used in this section, "supervision" means the over-
8 seeing of or participation in the work of any other individual by
9 a health professional licensed under this article in circum-
10 stances in which 1 or more of the following exist:

11 (a) The continuous availability of direct communication in
12 person or by radio, telephone, or telecommunication between the
13 supervised individual and a licensed health professional.

14 (b) The availability of a licensed health professional on a
15 regularly scheduled basis to review the practice of the super-
16 vised individual, to provide consultation to the supervised indi-
17 vidual, to review records, and to further educate the supervised
18 individual in the performance of the individual's functions.

19 (c) The provision by the licensed supervising health profes-
20 sional of predetermined procedures and drug protocol.