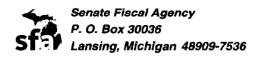
DENTAL THERAPISTS: LICENSURE





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Senate Bill 1013 (as introduced 6-7-16)

Sponsor: Senator Mike Shirkey

Committee: Health Policy

Date Completed: 9-19-16

## CONTENT

The bill would amend Part 166 (Dentistry) of the Public Health Code to provide for the licensure of dental therapists. Specifically, the bill would do the following:

- -- Prescribe the scope of practice of a dental therapist.
- -- Establish the qualifications for dental therapist licensure, including education, examination, and completion of a supervised clinical practice requirement.
- -- Establish a continuing education requirement for renewal of a dental therapist license.
- -- Prescribe the health settings in which a dental therapist could practice, including a dental shortage area and a facility serving low-income patients and those without dental coverage.
- -- Allow a dental therapist to practice only under a written practice agreement with a supervising dentist, and prescribe the elements that an agreement would have to address.
- -- Require the supervising dentist to accept responsibility for all authorized services and procedures performed by the dental therapist under the agreement.
- -- Specify that a dental therapist who provided services or procedures beyond those authorized in the agreement would be considered to have engaged in unprofessional conduct and would be subject to disciplinary action.
- -- Allow a dental therapist to supervise up to three dental assistants and two dental hygienists in a particular practice setting, if authorized in the agreement.
- -- Prohibit a dental therapist from prescribing controlled substances.
- -- Require a supervising dentist to arrange for, and require a dental therapist to provide a referral for, any necessary services that exceeded the dental therapist's scope of practice.
- -- Include a dental therapist among the health care professionals who may use a dental assistant as a second pair of hands.
- -- Require the Michigan Board of Dentistry, in consultation with the Department of Health and Human Services (DHHS), to complete a study on the impact of dental therapist licensure and report to the DHHS, the Department of Licensing and Regulatory Affairs (LARA), and the Legislature.
- -- Require LARA or the Board to promulgate any rules it considered necessary to implement the bill's provisions.

The bill also would amend Part 161 (General Provisions) of the Code to do the following:

-- Establish fees for dental therapist application processing, examination, licensing, and examination review.

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# -- Include unprofessional conduct by a dental therapist among the grounds for disciplinary action against a licensee.

The bill would take effect 90 days after enactment.

## Scope of Practice

An individual who was granted a license under Part 166 as a dental therapist could engage in practice as a dental therapist to the extent permitted in the bill. "Practice as a dental therapist" would mean providing any of the care and services, and performing any of the duties, described in Section 16657. The bill would add that section to allow a licensed dental therapist to provide any of the following care or services under the general supervision of a dentist:

- -- Identifying oral and systematic conditions that require evaluation or treatment by dentists, physicians, or other health care professionals and managing referrals.
- -- Comprehensive charting of the oral cavity.
- -- Providing oral health instruction and disease prevention education, including nutritional counseling and dietary analysis.
- -- Administering and exposing radiographic images.
- -- Dental prophylaxis, including subgingival scaling or polishing procedures.
- -- Dispensing and administering via the oral or topical route nonnarcotic analgesics and antiinflammatory and antibiotic medications as prescribed by a health care professional.
- -- Applying topical preventative or prophylactic agents, including fluoride varnish, antimicrobial agents, and pit and fissure sealants.
- -- Pulp vitality testing.
- -- Applying desensitizing medication or resin.
- -- Fabricating athletic mouth guards.
- -- Changing periodontal dressings.
- -- Administering local anesthetic and nitrous oxide analgesia.
- -- Simple extraction of erupted primary teeth.
- -- Emergency palliative treatment of dental pain related to a care or service described in the scope of practice.
- -- Preparation and placement of direct restoration in primary and permanent teeth.
- -- Fabrication and placement of single-tooth temporary crowns.
- -- Preparation and placement of performed crowns and primary teeth.
- -- Indirect and direct pulp capping on permanent teeth.
- -- Indirect pulp capping on primary teeth.
- -- Suturing and suture removal.
- -- Minor adjustments and repairs on removable prostheses.
- -- Removal of space maintainers.
- -- Nonsurgical extractions of periodontally diseased permanent teeth with tooth mobility +3 to +4 (excluding extraction for any patient if the tooth is unerupted, impacted, or fractured or needs to be sectioned for removal).
- -- Performing other related services and functions authorized by the supervising dentist and for which the dental therapist is trained.
- -- Performing any other duties of a dental therapist authorized by the Board of Dentistry by rule.

("Health care professional" would mean an individual who is authorized to practice a health profession under Article 15 (Occupations) of the Code.)

The bill would include "dental therapist" and "D.T." among the words, titles, and letters that may be used only by those individuals who are authorized under Part 166 to use them and in a way prescribed in Part 166.

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## Qualification for Licensure; Temporary License; License Renewal

To qualify for licensure as a dental therapist, an individual would have to apply to LARA on forms provided by the Department, pay the prescribed application fee, and demonstrate to the Department that he or she had graduated from a dental therapy education program that satisfied all of the following conditions:

- -- Met the standard established by the Board for accreditation of a degree-granting program in dental therapy education at an approved postsecondary education institution.
- -- As determined by LARA in consultation with the Board, met the accreditation standards for dental therapy education programs established by the Commission on Dental Accreditation.
- -- Was accredited by the Board.
- -- Met any other requirements for dental therapy education adopted by the Board.

Additionally, the applicant would have to demonstrate to LARA that he or she had done both of the following:

- -- Passed a comprehensive, competency-based clinical examination approved by LARA that included an examination of the applicant's knowledge of Michigan law under Part 166 and rules promulgated under it.
- -- Completed 500 hours of supervised clinical practice under the supervision of a dentist and in conformity with rules adopted by the Board.

An individual engaged in completing his or her supervised clinical practice would be eligible for a temporary license as a dental therapist.

The Board would have to grant a temporary license to an applicant for licensure who met all of these requirements and requirements of Board rules, and who had paid the prescribed fee. While the applicant held the temporary license, he or she would have to maintain in good standing his or her license to practice as a dental hygienist, and he or she could receive compensation for services performed as a dental therapist.

The Board would have to grant a license to practice as a dental therapist to an applicant who met the applicable requirements and paid the application fee.

As a condition of license renewal, a dental therapist would have to submit evidence of successful completion of 35 hours of continuing education in the two years before renewal. Continuing education would have to conform to the Code's requirements concerning continuing education courses and would have to include Board-approved courses, including a course in cardiopulmonary resuscitation. The Board could refuse renewal to an applicant who had not satisfied the continuing education requirements, or could renew a license on terms and conditions established by the Board.

# Settings for Practice as a Dental Therapist

After completing the required 500 hours of supervised clinical practice, a dental therapist could provide services within the scope of practice as a dental therapist and under the general supervision of a dentist in any of the following health settings:

- -- A licensed hospital.
- -- A health facility or agency, other than a hospital, that is licensed under the Code and is reimbursed as a federally qualified health center (FQHC) or that has been determined by the U.S. Department of Health and Human Services (HHS), Centers for Medicare and Medicaid Services to meet the requirements for funding under Section 330 of the Public

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Health Service Act (which provides for grants to plan and develop health centers that serve medically underserved populations).

- -- An FQHC that is licensed as a health facility or agency under the Code.
- -- An outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act or by an urban Indian organization receiving funds under Title V of the Indian Health Care Improvement Act (which provides for contracts and grants to establish programs in urban centers to make health services more accessible to urban Indians).
- -- A health setting in a geographic area that is designated as a dental shortage area by the HHS.
- -- A child and adolescent health center, as described in Section 31a(7) of the State School Aid Act (which allocates money from the School Aid Fund for grants to support child and adolescent health centers that serve children up to age 21).

A dental therapist also could provide services under the general supervision of a dentist in any other clinic or practice setting, including a mobile dental unit, in which at least 50% of the dental therapist's total patient base consisted of patients who met any of the following conditions:

- -- Were enrolled in a health care program administered by the HHS.
- -- Had a medical disability or chronic condition that created a significant barrier to receiving dental care.
- -- Did not have dental health coverage, either through a public health care program or private insurance, and had an annual gross family income equal to or less than 200% of the Federal poverty level (FPL).
- -- Did not have dental health coverage, either through a State public health care program or private insurance, and whose family gross income was equal to or less than 200% of the FPL.

# Written Practice Agreement

A dental therapist could practice only under the general supervision of a dentist who was licensed in Michigan and through a practice agreement signed by the dental therapist and the dentist. A dental therapist could practice only under the standing order of a dentist, could provide only care that followed written protocols, and could provide only services that he or she was authorized to provide by that dentist.

("Written practice agreement" would mean a document that is signed by a dentist and a dental therapist and that, in conformity with the legal scope of practice as a dental therapist, outlines the functions that the dental therapist is authorized to perform.)

A dental therapist could provide services to a patient who had not first seen a dentist for examination if the supervising dentist gave the dental therapist written authorization and standing protocols for the services and reviewed the patient records as provided in the practice agreement. The protocols could require the dentist personally to examine patients either face-to-face or by the use of electronic means.

A written practice agreement would have to include all of the following:

- -- The services and procedures that the dental therapist could provide, as well as the practice settings for them, together with any limitations on those services and procedures.
- -- Any age-specific and procedure-specific practice protocols, including case selection criteria, assessment guidelines, and imaging frequency.
- -- Procedures to be used with patients treated by the dental therapist for obtaining informed consent and for creating and maintaining dental records.
- -- A plan for review of patient records by the supervising dentist and the dental therapist.

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- -- A plan for managing medical emergencies in each practice setting in which the dental therapist provided care.
- -- A quality assurance plan for monitoring care, including patient care review, referral followup, and a quality assurance chart review.
- -- Protocols for administering and dispensing medications, including the specific circumstances under which medications could be administered and dispensed.
- -- Criteria for providing care to patients with specific medical conditions or complex medical histories, including requirements for consultation before initiating care.
- -- Specific written protocols, including a plan for providing clinical resources and referrals, governing situations in which the patient required treatment that exceeded the dental therapist's capabilities or scope of practice.

The supervising dentist would have to accept responsibility for all authorized services and procedures performed by the dental therapist under the agreement.

A dental therapist's provision of services or procedures beyond those authorized in the agreement would constitute engagement in unprofessional conduct for the purposes of disciplinary action (described below).

Revisions to a written practice agreement would have to be documented in a new agreement signed by the supervising dentist and the dental therapist.

A supervising dentist and a dental therapist who signed a written practice agreement each would have to file a copy of the agreement with the Board, keep a copy for his or her own records, and make a copy available to the dental therapist's patients upon request. The Board would have to make a copy of the agreement in its records available to the public upon request.

A dental therapist could supervise dental assistants and hygienists to the extent permitted in a written practice agreement; however, he or she could not supervise more than three dental assistants and two dental hygienists in any one practice setting.

#### Referrals

A supervising dentist would have to arrange for another dentist or specialist to provide any services needed by a patient of a dental therapist who was supervised by that dentist that were beyond the dental therapist's scope of practice and that the supervising dentist was unable to provide. In accordance with a written practice agreement, a dental therapist would have to refer patients to another qualified dental professional or health care professional to receive needed services that exceeded the dental therapist's scope of practice.

# Controlled Substances

Under Part 72 (Standards and Schedules) of the Code, controlled substances are placed in one of five schedules based on their potential for abuse, whether they have currently accepted medical use in treatment in the United States, and the potential for abuse to lead to psychic or physical dependence. Under the bill, a dental therapist could not prescribe a controlled substance included in Schedules 2 through 5 (which are recognized as having currently accepted medical use).

# Second Pair of Hands

Under Part 166, a dental hygienist may use a dental assistant to act as his or her second pair of hands. A dental assistant may function as a second pair of hands for a dentist or dental hygienist if certain conditions are met. Under the bill, a dental therapist also could use a dental assistant as a second pair of hands, and a dental assistant could function as a second

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pair of hands for a dental therapist if the therapist were actively performing services in the mouth of a patient while the assistant was assisting him or her.

The current provisions related to the use of a dental assistant as a second pair of hands do not require new or additional third-party reimbursement or mandated worker's compensation benefits for services rendered by an individual who is licensed as a dental assistant or dental hygienist. The bill also would refer to services rendered by an individual licensed as a dental therapist.

#### Study

Within seven years after the bill took effect, the Board, in consultation with the DHHS Director or his or her designees, would have to conduct and complete a study concerning the impact of licensing dental therapists on patient safety, cost-effectiveness, and access to dental services in the State. The study would have to focus on the following outcome measures:

- -- Number of new patients served.
- -- Reduction in waiting time for needed services.
- -- Decreased travel time for patients.
- -- Impact on emergency room use for dental care.
- -- Costs to the health care system.

Within 30 days after completion of the study, the Board would have to give a written report concerning the results to the LARA Director, the DHHS Director, and the chairs of the standing committees of the Senate and House of Representatives responsible for health policy.

## Disciplinary Action

The Code requires LARA to investigate any allegation that certain grounds for disciplinary subcommittee action exist, and authorizes the Department to investigate activities related to the practice of a health profession by a licensee or applicant for licensure. Following its investigation, LARA must give a copy of the administrative complaint to the appropriate disciplinary subcommittee, which must impose sanctions if it finds that any of the prescribed grounds exist. The grounds for action include unprofessional conduct. Under the bill, "unprofessional conduct" would include a dental therapist's provision of services or procedures beyond those authorized in the written agreement. For such a violation, the disciplinary subcommittee would have to impose one or more of the following: probation, suspension, revocation, limitation, or denial of a license.

# License Fees

The Code prescribes license fees for an individual licensed or seeking licensure to practice as a dentist, dental assistant, or dental hygienist under Part 166. For an individual licensed or seeking licensure as a dental therapist, the bill would prescribe a \$15 application processing fee, a \$300 examination fee, a \$40 per-year license fee, a \$15 temporary license fee, a \$15 limited license fee, and a \$50 examination review fee.

MCL 333.16221 et al. Legislative Analyst: Julie Cassidy

#### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs, and no fiscal impact on local units of government. The bill would establish a licensing program for those wishing to practice dental therapy in Michigan, along with various fees that would support that program. The proposed fees are in line with fees currently associated with the licensure of dentists, dental assistants, and dental hygienists.

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According to a report published by LARA, fees for dentistry-related professions generate revenue in excess of costs on an annual basis, so it would be reasonable to assume that, on a long-term basis, the proposed fees for dental therapists would do the same.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.