

LICENSING DENTAL THERAPISTS

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<http://www.house.mi.gov/hfa>

Senate Bill 541 (H-2) as reported from House committee

Sponsor: Sen. Mike Shirkey

House Committee: Health Policy

Senate Committee: Health Policy

Revised 6-6-20

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 541 would provide for the licensing of dental therapists under Part 166 (Dentistry) of the Public Health Code and make complementary changes to other sections of the Code.

Practice as a dental therapist would mean providing any of the care and services, and performing any of the duties, described in **Scope of practice**, below.

Scope of practice

Under a dentist's supervision, a licensed dental therapist could provide any of the following care or services:

- Identifying oral and systemic 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, orally or topically, nonnarcotic analgesics and anti-inflammatory and antibiotic medications as prescribed by a health care professional.
- Applying topical preventative or prophylactic agents, including fluoride varnish, silver diamine fluoride and other fluoride treatments, 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 that may be performed by a dental therapist.
- Preparation and placement of direct restoration in primary and permanent teeth.
- Fabrication and placement of single-tooth temporary crowns.
- Preparation and placement of preformed crowns on 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.

- Placement and removal of space maintainers.
- Nonsurgical extractions of periodontally diseased permanent teeth with tooth mobility +3. However, a dental therapist could not extract a tooth if the tooth was unerupted, impacted, or fractured or needed 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 rule by the Board of Dentistry (“Board”).

Licensure as a dental therapist

Under the bill, in order to qualify for licensure as a dental therapist, a person would apply to the Department of Licensing and Regulatory Affairs (LARA), pay the application fee, and demonstrate that he or she meets all of the following:

- Has graduated from a dental therapy education program that meets the applicable accreditation requirements and any other requirements for dental therapy education programs adopted by the Board.
- Has passed a comprehensive, competency-based clinical examination approved by LARA that includes an examination of the applicant’s knowledge of Michigan’s laws and rules concerning dentistry.
- Has completed 500 hours of supervised clinical practice under the direct supervision of a dentist and in conformity with rules adopted by the Board.

In order to renew a dental therapist license, a person would have to submit evidence of successful completion of 35 hours of Board-approved *continuing education* in the two years before renewal.

Practice as a dental therapist

A dental therapist could provide the services listed in the **Scope of practice**, above, under the supervision of a dentist in certain health settings, including, among other settings, a hospital, health facility, school-based health center, or a clinic or mobile dental unit that provides care to those without dental health coverage.

A dental therapist could practice only under the supervision of a dentist and through a written *practice agreement* signed by the dental therapist and dentist. The dental therapist could provide only the services that are within his or her **Scope of practice**, are authorized by a supervising dentist, and are provided according to written protocols or orders established by the supervising dentist. Additional provisions of the agreement are described below in **Practice agreement**.

A dental therapist would have to comply with the *scope of practice* provisions listed above in **Scope of practice**.

LARA, in consultation with the Board, would promulgate any rules that they consider necessary to implement these requirements within a year after the bill took effect.

Practice agreement

The practice agreement would be valid for three years and, among other requirements, would have to include all of the following elements:

- The services and procedures that the dental therapist may provide, together with any limitations.
- Procedures for obtaining informed consent.
- Plans for review of patient records by the supervising dentist and the dental therapist; for managing medical emergencies in each practice setting in which the dental therapist provides care; and for monitoring care, including patient care review, referral follow-up, and a quality assurance chart review.
- Protocols for administering and dispensing medications and a plan for providing clinical resources and referrals.

Under the bill, a dental therapist could supervise up to three dental assistants and two dental hygienists in a single practice setting. A dental therapist could not prescribe a Schedule II to V controlled substance.

Licensure fees

The bill would introduce all of the following fees for dental therapists:

Type of Fee	Fee Amount
Application processing fee	\$15
Examination fee	\$300
License fee, per year	\$40
Temporary license fee	\$15
Limited license fee, per year	\$15
Examination review fee	\$50

Responsibilities for dentists

A supervising dentist would have to participate in drafting the practice agreement and could supervise no more than four dental therapists. A health facility or agency could not require a dentist to enter into a written practice agreement with a dental therapist as a condition of employment.

Protected terms

The bill would add the following terms to the existing terms restricted in use to only those persons authorized to use them: “dental therapist” and “D.T.”

Representation on Michigan Board of Dentistry

Beginning five years after the bill takes effect, the Michigan Board of Dentistry would have to add to the Board one dental therapist who had paid all applicable fees, bringing the number of voting members to 21. It would also raise the number of dentists on the Board to nine when the bill took effect. Currently, the 19 members include eight dentists, two dentists with advanced training, four dental hygienists, two dental assistants, and three public members. The

dental therapist would have an equal vote on all matters before the board, except those that apply only to dentists.

Dental assistants

The bill would allow a dental therapist to utilize a dental assistant as a “second pair of hands,” just as that allowance exists for dentists and dental hygienists, as long as the dental therapist is also actively performing services in the patient’s mouth at the time of the assistance. This provision would not require new or additional third-party reimbursement or mandated worker’s compensation benefits for services rendered by those professionals.

Penalties for violation

Under the bill, a dental therapist who provided services or procedures beyond those in the written practice agreement would be engaging in unprofessional conduct and, if confirmed in an investigation by LARA, would be subject to probation, suspension, revocation, limitation, denial, restitution, or fine.

Study and report

Within seven years after the bill took effect, the Department of Health and Human Services (DHHS), in consultation with LARA, would 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. Then, within 30 days after the study was completed, DHHS would provide a written report in its results to LARA and the chairs of the House and Senate Health Policy committees.

The bill would take effect 90 days after enactment.

MCL 333.16221 et seq.

HOUSE COMMITTEE ACTION:

The House Committee on Health Policy reported an H-2 substitute for the bill. First, the substitute would incorporate changes recently made to the Public Health Code by Public Act 249 of 2017 regarding Michigan Automated Prescription System (MAPS) registration; without this substitute, those changes would effectively be overturned by the bill’s enactment.

The substitute would also do all of the following:

- Increase the number of voting members on the Board from 19 to 20, including one additional dentist, and increase the number to 21 five years after the bill took effect, including one dental therapist.
- Remove a provision allowing a dental therapy student to be eligible for a temporary license.
- Add a local health department to the list of health settings at which a dental therapist could practice.
- Allow a dental therapist to perform an oral evaluation and develop a treatment plan if allowed in a written practice agreement.

Finally, the substitute would amend an unrelated section of the Code regarding medical licensure. It would exempt from examination and clinical observation requirements certain applicants who completed a medical degree outside of the U.S. or Canada.

BRIEF DISCUSSION:

Proponents advanced the bill as a low-cost way of extending dental care to more Michiganders. Providing a safety net to those currently without dental care would be targeted most toward preventing and treating disease, supporters said, and would allow dentists to “practice at the top of their licenses,” or focus on the most complex and specialized cases. They argued that this provides efficiency throughout the system and passes along savings to the consumer, because individuals are not performing tasks for which they are overqualified.

In response, opponents stated that a 2015 Pew Research report on Oral Health in Michigan¹ found a “seemingly adequate supply of dental professionals on a per population basis. In 2014, there were almost 7,700 dentists and approximately 10,500 dental hygienists licensed to practice in Michigan.” Introduction of a mid-level dental license would result in a glut of dental health providers, they argued.

Of note, the report goes on to indicate that the oral health providers are not evenly spread throughout the state, so Michigan has a number of designated dental health professions shortage areas (DHPSAs). Proponents hope that an additional level of licensure would extend the availability of dental care throughout the state.

FISCAL IMPACT:

Senate Bill 541 would have an indeterminate fiscal impact on LARA and no fiscal impact on other units of state or local government. The bill would increase departmental revenues by establishing fees for licensure in dental therapy as follows: \$15 application processing fee, \$300 examination fee, \$40 licensing fee per year, \$15 temporary licensing fee, \$15 per year limited license fee, and a \$50 examination review fee. The bill would require LARA to promulgate rules for the implementation of dental therapist licensure and to administer the licensing dental therapists, which would entail administrative expenses, thus increasing the department’s expenditures. The net impact of the bill would be dependent on the level of revenue from licensing fees compared to departmental expenses, which is currently unknown.

POSITIONS:

Representatives of the following organizations testified in support of the bill (10-3-18):

Michigan Primary Care Association
HealthPartners
Grace Health

The following organizations indicated support for the bill:

Michigan Department of Licensing and Regulatory Affairs (12-5-18)
Michigan Department of Corrections (12-5-18)
Michigan State Denturist Society (10-3-18)
Michigan Council for Maternal and Child Health (10-3-18)
Michigan’s Children (10-3-18)
Michigan League for Public Policy (10-3-18)
School Community Health Alliance—Michigan (10-3-18)

¹ http://www.chwsny.org/wp-content/uploads/2015/06/Oral_Health_MI_Report_Final_reduced.pdf

The Arc Michigan (10-3-18)
American Legion, Department of Michigan (10-3-18)
Sault Ste Marie Tribe of Chippewa Indians (10-3-18)
My Community Dental Centers (10-3-18)
Michigan Dental Hygienists Association (10-3-18)
Michigan Community Action (10-3-18)
Winning Smiles Inc Mobile Dental Services (10-3-18)
Michigan Association of United Ways (10-3-18)
National Association of Social Workers, MI (10-3-18)
AARP of Michigan (10-3-18)
Michigan Association of School Nurses (10-3-18)
Michigan Disability Rights Coalition (10-3-18)
Wolverine Dental Hygienists Society (10-3-18)
Michigan Developmental Disabilities Council (10-3-18)
Mackinac Center (10-3-18)
Michigan Association of Health Plans (12-5-18)
Area Agency on Aging 1-B (12-5-18)

A representative of the Michigan Dental Association testified in opposition to the bill.
(10-3-18)

The following organizations indicated opposition to the bill (10-3-18):

Michigan Academy of Pediatric Dentistry
Michigan Academy of General Dentistry
Michigan Dental Assistants Association
Michigan Osteopathic Association
Michigan Association of Orthodontists
Council of Michigan Dental Specialties

Legislative Analyst: Jenny McInerney
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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.