

Legislative Analysis



LICENSING DENTAL THERAPISTS

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Senate Bill 541 as enacted

Public Act 463 of 2018

Sponsor: Sen. Mike Shirkey

House Committee: Health Policy

Senate Committee: Health Policy

Revised 6-6-20

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

BRIEF SUMMARY: Senate Bill 541 provides for the licensing of dental therapists under Part 166 (Dentistry) of the Public Health Code and makes complementary changes to other sections of the Code.

FISCAL IMPACT: Senate Bill 541 would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs (LARA) and no fiscal impact on other units of state or local government. (See **Fiscal Information**, below, for further discussion.)

THE APPARENT PROBLEM:

Generally, for those seeking nonspecialized dental care, there are two levels of professional care: dental hygienists and dental assistants and—overseeing those professionals—dentists. Under the Public Health Code, hygienists and assistants may be assigned procedures ranging from plaque removal and taking X-rays to delivering local anesthesia under the supervision of dentists. Dentists perform more specialized tasks, including gum care and performing root canals, fillings, and bridges.

Some have argued that, in order to create a more efficient dental framework, ensuring that dentists are performing “at the top of their certification” and only performing the tasks for which they are uniquely qualified, a mid-level provider of dental care should be licensed by the state. This bill proposes licensure of dental therapists, who would still operate under the supervision of dentists, but would perform procedures at a higher level than dental hygienists or dental assistants.

THE CONTENT OF THE BILL:

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

Practice as a dental therapist means 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 may 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 may not extract a tooth 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 rule by the Board of Dentistry (“Board”).

Licensure as a dental therapist

Under the bill, to qualify for licensure as a dental therapist, a person must apply to 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.

To renew a dental therapist license, a person must 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 may 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, correctional facility, or a clinic or mobile dental unit that provides care to those without dental health coverage.

A dental therapist may practice only under the supervision of a dentist and through a written ***practice agreement*** signed by the dental therapist and dentist. The dental therapist may 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 must comply with the *scope of practice* provisions listed above in **Scope of practice**.

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

Practice agreement

The practice agreement is valid for three years and, among other requirements, must 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 may supervise up to three dental assistants and two dental hygienists in a single practice setting. A dental therapist may not prescribe a Schedule II to V controlled substance.

Licensure fees

The bill introduces the following fees for dental therapists:

<u>Type of Fee</u>	<u>Fee Amount</u>
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 must participate in drafting the practice agreement and may supervise up to four dental therapists. A health facility or agency cannot require a dentist to enter into a written practice agreement with a dental therapist as a condition of employment.

Protected terms

The bill adds 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 must add to the Board one dental therapist who has paid all applicable fees, bringing the number of voting members to 21. The dental therapist will have an equal vote on all matters before the board, except those that apply only to dentists. The bill also raises the number of dentists on the Board to nine when it takes effect. Previously, the Board consisted of 19 members, which included eight dentists, two dentists with advanced training, four dental hygienists, two dental assistants, and three public members.

Dental assistants

The bill allows 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 does 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 provides services or procedures beyond those in the written practice agreement is engaging in unprofessional conduct and, if confirmed in an investigation by LARA, is subject to probation, suspension, revocation, limitation, denial, restitution, or fine.

Study and report

Within seven years after the bill takes effect, the Department of Health and Human Services (DHHS), in consultation with LARA, must 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 is completed, DHHS must provide a written report in its results to LARA and the chairs of the House and Senate Health Policy committees.

The bill took effect March 27, 2019.

MCL 333.16221 et seq.

FISCAL INFORMATION:

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.

ARGUMENTS:

For:

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.

Supporters promoted the licensure as a way of providing lower-cost dental care to low-income Michiganders. Given the low Medicaid reimbursement rates for dental services, and the resulting low enrollment rate by dentists, dental therapists would fill the gap in services, said proponents.

Response:

Critics argued that a better way to address these issues would be to address Medicaid reimbursement rates. While private dental insurance reimburses, on average, 80.5% of fees charged by dentists for children and 78.6% for adults, Medicaid fee-for-service reimbursement rates for those categories are 49.4% and 37.2%, on average.¹ Accordingly, dentists are less likely to enroll as participants. (Of note, Michigan's Healthy Kids Dental boasts reimbursement rates of 66 to 89% higher than traditional Medicaid reimbursement.)

Against:

Opponents pointed out that a 2015 Pew Research report on Oral Health in Michigan² 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.

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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.

¹ https://www.ada.org/~media/ADA/Science%20and%20Research/HPI/Files/HPIBrief_0417_1.pdf

² http://www.chwsny.org/wp-content/uploads/2015/06/Oral_Health_MI_Report_Final_reduced.pdf