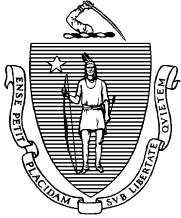


Senate, No. 2819, printed as amended

[Senate, July 22, 2008 - Substituted by amendment by the Senate (Ways and Means) for Senate, No. 2478, as amended (Wilkerson)]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND EIGHT

AN ACT TO IMPROVE, PROMOTE AND PROTECT THE ORAL HEALTH OF THE COMMONWEALTH

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Section 19 of chapter 13 of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by striking out, in line 2, the figure “9” and inserting in
3 place thereof the following figure:- 10.

4
5 SECTION 2. Said section 19 of said chapter 13, as so appearing, is hereby further
6 amended by inserting after the word “appointment”, in line 11, the following words:- and 1 of
7 whom shall be a dental assistant in the commonwealth for the 5 years next preceding his
8 appointment.

9

10 SECTION 3. Chapter 111 of the General Laws, as so appearing, is hereby amended by
11 inserting after section 4M the following new section:-

12 Section 4N. (a) Subject to appropriation, the commissioner shall appoint a dental
13 director. The dental director shall serve at the pleasure of the commissioner and shall be a
14 dentist licensed in the commonwealth with public health experience. The department may
15 establish additional qualifications for the position of dental director by regulation. The dental
16 director shall oversee the department of public health dental program to increase access to oral
17 health services, oral health prevention activities and other initiatives to address oral health
18 disparities.

19 (b) There shall be an office of oral health within the department with responsibilities
20 including, but not limited to, the following oral public health activities:

21 (1) provide recommendations and guidance to the department and other individuals or
22 entities as the office determines, including, but not limited to other departments, agencies,
23 community providers and the legislature for preventing oral diseases of residents of the
24 commonwealth and for improving, promoting and protecting the oral health of residents with a
25 focus on underserved populations and reducing oral health disparities;

26 (2) monitor, study and appraise the commonwealth's oral health needs and resources;

27 (3) foster the development, expansion and evaluation of oral health services for
28 residents of the commonwealth in collaboration with key partners, including, but not limited to:
29 other executive office of health and human services agencies and departments, including, but
30 not limited to, MassHealth, department of youth services, department of children and families,
31 department of mental retardation, department of mental health, the executive office of elderly
32 affairs, board of registration in dentistry and other public agencies, including but not limited to,

33 the department of elementary and secondary education and the department of early education
34 and care;

35 (4) provide information and education concerning oral health to the dental and health
36 community and to the public;

37 (5) promote and provide technical assistance, monitoring and evaluation of population-
38 based dental programs, such as community water fluoridation, school prevention programs and
39 mobile and portable dental programs, and other programs to improve access to services;

40 (6) policy development to promote the public's oral health; and

41 (7) other related programs, policies and preventive measures that impact oral health.

42 SECTION 4. Section 43A of said chapter 112, as so appearing, is hereby amended by
43 striking out, in lines 15 and 16, the words “qualified by education, training or experience” and
44 inserting in place thereof the following words:- registered by the board or authorized under
45 section 51½.

46 SECTION 5. Said section 43A of said chapter 112, as so appearing, is hereby further
47 amended by inserting after the word “procedures”, in line 18, the following words:- under
48 supervision by a licensed dentist as determined by the board.

49 SECTION 6. Said section 43A of chapter 112 of the General Laws, as so appearing, is
50 hereby amended by adding the following definition:-

51 “Public health dental hygienist”, a dental hygienist with at least 3 years of full-time
52 clinical experience who is practicing full or part time in public health settings pursuant to
53 section 51, and who has received appropriate training as determined by the department of public
54 health.

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SECTION 7. Section 51 of said chapter 112, as so appearing, is hereby amended by

inserting after the second paragraph the following 2 paragraphs:-

A registered dental hygienist practicing as a public health dental hygienist may perform, without the supervision or direction of a dentist, in public health settings, any procedure or provide any service that is within the scope of his or her practice and that has been authorized and adopted by the board as a delegable procedure for dental hygienists in private practice under general supervision. Public health settings shall include, but not be limited to, the following: residences of the homebound; schools; nursing homes and long-term care facilities; clinics, hospitals, medical facilities, community health centers and mobile and portable dental health programs licensed or certified by the department of public health; Head Start programs; and other facilities or programs deemed appropriate by the department of public health. Before performing a procedure or providing a service under this paragraph, a public health dental hygienist shall enter into a written collaborative agreement with a local or state government agency or institution, or with a licensed dentist who states that he shall be able to provide the appropriate level of communication and consultation with the dental hygienist to ensure patient health and safety. The board shall establish appropriate guidelines for this written collaborative agreement. Public health dental hygienists shall be required to provide to the patient or his legal guardian a written referral to a dentist and an assessment of further dental needs. Public health dental hygienists shall also provide each patient or his guardian, for the patient or his guardian's signature, a consent form, consistent with current department of public health policies, that describes services to be rendered, explains that the services are not a substitute for a dental examination by a dentist, and informs the patient or his legal guardian that the patient should

78 obtain a dental examination by a dentist within 90 days. Public health dental hygienists shall be
79 directly reimbursed for services administered in a public health setting only by Medicaid or the
80 commonwealth care health insurance program. The designation of public health dental hygienist
81 shall not authorize a dental hygienist to operate independently of a dentist with the exception of
82 a dental hygienist working for a local or state government agency or institution, or practicing in
83 a mobile or portable prevention program licensed or certified by the department of public
84 health.

85 The department of public health, in consultation with the board, shall determine an
86 appropriate level of training for designation of dental hygienists as public health dental
87 hygienists within 6 months of the passage of this legislation.

88 SECTION 8. Said section 51 of said chapter 112, as so appearing, is hereby amended by
89 striking out, in lines 41 and 42, the words “and those delegated procedures performed by a
90 dental assistant”.

91 SECTION 9. Said chapter 112 is hereby further amended by inserting after section 51
92 the following section:-

93 Section 51½. A person of good moral character, 18 years or older, shall, before
94 practicing as a dental assistant, register with the board. A person who meets the applicable
95 qualifications and requirements for registration as a dental assistant as established and adopted
96 by the board, shall, upon application and payment of a fee, as determined annually by the
97 secretary of administration under section 3B of chapter 7, be registered as a dental assistant. The
98 board shall furnish to each registered person a registration certificate in a form prescribed by the
99 board. A registration certificate issued under this section shall be revoked upon the issuance to

100 the same person of a certificate of registration under section 45 or 51. Consistent with sections
101 43 to 53, inclusive, the board may adopt rules and regulations governing the registration and
102 practice of dental assistants to protect the public health, safety and welfare, including without
103 limitation, rules and regulations that establish and define the acts, services and delegated
104 procedures that may be performed by dental assistants, the level of supervision required by a
105 registered dentist, tiered classes or levels of practice and certification requirements each
106 established class or level, education and training requirements, registration and registration
107 renewal procedures and requirements for the display of registration certificates. The continuing
108 educational requirements set forth in section 51A shall not apply to this section unless adopted
109 by the board. A dental assistant shall not practice dentistry as defined in section 50 or perform
110 acts or services requiring the knowledge and skill of a registered dentist as set forth in section
111 51 or perform any acts or services that require the training, knowledge or skill of a registered
112 dental hygienist, unless specifically authorized by regulation adopted by the board and
113 performed under the appropriate supervision of a registered dentist; provided, however, that the
114 board shall not authorize a dental assistant to perform dental screenings, periodontal charting,
115 sub-gingival and supra-gingival scaling, root planting and curettage, minor emergency dental
116 adjustments, polishing of amalgam restorations, micro disk identification applications or
117 preliminary examinations for hygienist services. The board may, without examination if
118 otherwise required, register as a dental assistant an applicant who is duly licensed or registered
119 under the laws of a state, territory or commonwealth of the United States, or the District of
120 Columbia, where the requirements for licensure or registration are, in the opinion of the board,
121 equivalent to those in the commonwealth. Each dental assistant shall register biennially and in
122 the year not so designated for the registration of dentists and shall pay a biennial registration fee

123 determined under this section; provided, however, that the board may issue an initial registration
124 for not more than 2 years. Notwithstanding the above registration requirement, a person who is
125 18 years of age or older may practice as a dental assistant without being registered by the board
126 for on-the-job training or professional education training under the supervision of a registered
127 dentist for a preliminary and 1-time period of up to 6 consecutive months to commence from the
128 beginning of the initial training if the person: (a) has not been previously employed, licensed or
129 registered as a dentist, dental hygienist or dental assistant; (b) has, before the commencement of
130 the training, provided written notification to the board of the training on a form prescribed by
131 the board and a certification by the supervising dentist confirming he will supervise the person
132 during the training; and (c) is not in violation of any rule or regulation adopted by the board.
133 The board may extend the training period for an additional 6 months for any dental assistant
134 who is enrolled in a program of professional educational training for dental assistants offered by
135 a college, university or dental school authorized to confer degrees or by another dental
136 institution or association recognized by the board.

137 All registration applications and training notifications submitted to the board under this
138 section shall be signed under the penalties of perjury by the person certifying the information
139 contained therein. The board shall investigate all complaints relating to the practice of dental
140 assistants. The authority granted to the board in sections 43 to 53, inclusive, shall include
141 disciplining dental assistants who are registered or authorized to practice for training purposes,
142 and the board may exercise its authority, conduct hearings regarding complaints and suspend,
143 revoke or cancel such registration or authorization to practice as a dental assistant to protect the
144 health, safety and welfare of the public, in the same manner as with registered dentists and
145 dental hygienists.

146 A registered, dentist under section 45, dental faculty member or dental intern under
147 section 45A subject to a restriction on location of practice, or a hygienist under section 51, shall
148 not be considered to be practicing as a dental assistant for the purposes of this section.

149 SECTION 10. Section 52 of said chapter 112 as so appearing, is hereby amended by
150 striking out the words “or dental hygiene”, line 7, and inserting in place thereof the following
151 words:- , dental hygiene or as a dental assistant.

152 SECTION 11. Said section 52 of said chapter 112, as so appearing, is hereby further
153 amended by inserting after the word “fifty-one”, in line 8, the following words:- and a half.

154 SECTION 12. Chapter 118E of the General Laws, as so appearing, is hereby amended
155 by inserting after section 2 the following new section:-

156 Section 2A. (1) In order to improve, promote and protect the oral health of all residents
157 of the commonwealth, there shall be a full-time director of dental services in the office of
158 Medicaid who shall work collaboratively with the department of public health to facilitate the
159 integration of programs to improve oral health.

160 (2) The director of dental services shall be a dentist licensed in the commonwealth who
161 has public health experience and shall oversee the MassHealth dental program and collaborate
162 with the dental director at the department of public health and the office of oral health on dental
163 public health programs for MassHealth recipients to increase access to oral health services, oral
164 health prevention activities and other initiatives to address oral health disparities, including but
165 not limited to workforce shortages.

166 SECTION 13. Notwithstanding any general or special law the contrary, the office of
167 oral health in the department of public health shall evaluate programs and develop quality
168 assurance activities, including but not limited to, an update on progress made to date on the
169 recommendations of the report of the special commission on oral health filed pursuant to section
170 42 of chapter 170 of the acts of 1997. The update shall be filed with the joint committee on
171 public health on or before May 1, 2009.

172 SECTION 14. Notwithstanding any general or special law the contrary, the department
173 of public health shall submit a report on public health dental hygienists as defined by section
174 43A of chapter 112 of the General Laws, including, but not limited to, the current number of
175 registered public health dental hygienists, the public health settings in which they practice and
176 the type of procedures or services most commonly performed under this designation. The report
177 shall also evaluate whether the designation of public health dental hygienists has improved
178 access to safe and effective dental services and dental hygiene services in the commonwealth.
179 The department shall submit the report, along with any recommendations for legislative or other
180 action, to the clerks of the senate and house of representatives not later than July 1, 2010. The
181 department shall submit a subsequent report, along with any recommendations for legislative or
182 other action, to the clerks of the senate and house of representatives not later than July 1, 2013.

183 SECTION 14A. The board of registration in dentistry shall establish guidelines pursuant to
184 section 51 of chapter 112 of the General Laws within 6 months of the effective date of this act.

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186 SECTION 15. Sections 4, 5, 8, 9, 10 and 11 shall take effect on July 1, 2009.