

Senate, No. 2901

[Senate, January 6, 2009 – Text of the further Senate amendment (Chandler) to the Senate bill to improve, promote and protect the oral health of the Commonwealth (Senate, No. 2819)]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND NINE

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

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

8 **SECTION 3.** Chapter 111 of the General Laws is hereby amended by inserting
9 after section 4N the following section:-

10 Section 4O. (a) Subject to appropriation, the commissioner shall appoint a dental
11 director. The dental director shall serve at the pleasure of the commissioner and shall be a
12 dentist licensed in the commonwealth with public health experience. The department may
13 establish additional qualifications for the position of dental director by regulation. The
14 dental director shall oversee the department of public health dental program to increase

15 access to oral health services, oral health prevention activities and other initiatives to
16 address oral health disparities.

17 (b) There shall be an office of oral health within the department with
18 responsibilities that shall include, but not be limited to:

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

24 (2) monitoring, studying and appraising the commonwealth's oral health needs
25 and resources;

26 (3) fostering the development, expansion and evaluation of oral health services for
27 residents of the commonwealth in collaboration with key partners including, but not
28 limited to, MassHealth, the department of youth services, the department of children and
29 families, the department of mental retardation, the department of mental health, the
30 executive office of elderly affairs, the board of registration in dentistry, the department of
31 elementary and secondary education and the department of early education and care;

32 (4) providing information and education concerning oral health to the dental and
33 health community and to the public;

34 (5) promoting and providing technical assistance, monitoring and evaluating
35 population-based dental programs including, but not limited to, community water
36 fluoridation programs, school prevention programs, mobile and portable dental programs
37 and other programs to improve access to services;

38 (6) developing policies to promote oral health; and
39 (7) developing related programs, policies and preventive measures that impact
40 oral health.

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42 **SECTION 4.** Section 43A of chapter 112 of the General Laws, as appearing in
43 the 2006 Official Edition, is hereby amended by striking out, in lines 15 and 16, the
44 words “qualified by education, training or experience” and inserting in place thereof the
45 following words:- registered by the board or authorized under section 51½.

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

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51 **SECTION 6.** Said section 43A of said chapter 112, as so appearing, is hereby
52 further amended by adding the following definition:-

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

57 **SECTION 7.** Section 51 of said chapter 112, as so appearing, is hereby amended
58 by inserting after the second paragraph the following paragraph:-

59 A registered dental hygienist practicing as a public health dental hygienist may
60 perform in a public health setting, without the supervision or direction of a dentist, any

61 procedure or provide any service that is within the scope of his practice and that has been
62 authorized and adopted by the board as a delegable procedure for dental hygienists in
63 private practice under general supervision. A public health settings shall include, but not
64 be limited to, the following: residences of the homebound; schools; nursing homes and
65 long-term care facilities; clinics, hospitals, medical facilities, community health centers
66 and mobile and portable dental health programs licensed or certified by the department of
67 public health; Head Start programs; and other facilities or programs deemed appropriate
68 by the department of public health. Before performing a procedure or providing a service
69 under this paragraph, a public health dental hygienist shall enter into a written
70 collaborative agreement with a local or state government agency or institution or with a
71 licensed dentist who states that he shall be able to provide the appropriate level of
72 communication and consultation with the dental hygienist to ensure patient health and
73 safety. The board shall establish appropriate guidelines for this written collaborative
74 agreement. Public health dental hygienists shall provide to the patient or to the patient's
75 legal guardian a written referral to a dentist and an assessment of further dental needs.
76 Public health dental hygienists shall also provide to each patient or to the patient's legal
77 guardian, a consent form to be signed by the patient or legal guardian, which form shall
78 be consistent with current department of public health policies, that describes services to
79 be rendered, explains that the services are not a substitute for a dental examination by a
80 dentist and informs the patient or legal guardian that the patient should obtain a dental
81 examination by a dentist within 90 days. Public health dental hygienists shall be directly
82 reimbursed for services administered in a public health setting by MassHealth or the
83 commonwealth care health insurance program, but shall not seek reimbursement from

84 any other insurance or third party payor. A public health dental hygienist shall not
85 operate independently of a dentist, except for a dental hygienist working for a local or
86 state government agency or institution or practicing in a mobile or portable prevention
87 program licensed or certified by the department of public health. In such cases, the local
88 or state government agency or institution, or mobile or portable prevention program
89 licensed or certified by the department of public health may seek reimbursement from
90 any other insurance or third party payor.

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

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97 **SECTION 9.** Said chapter 112 is hereby further amended by inserting after
98 section 51 the following section:-

99 Section 51½. No person shall practice as a dental assistant unless registered with
100 the board. A person who is at least 18 years of age, of good moral character and who
101 meets the applicable qualifications and requirements for registration as a dental assistant
102 as established and adopted by the board shall, upon application and payment of a fee, as
103 determined annually by the secretary of administration under section 3B of chapter 7, be
104 registered as a dental assistant. The board shall furnish to each such person a registration
105 certificate in a form prescribed by the board. A registration certificate issued under this
106 section shall be revoked upon the issuance to the same person of a certificate of

107 registration under section 45 or 51. The board may adopt rules and regulations consistent
108 with sections 43 to 53, inclusive, governing the registration and practice of dental
109 assistants to protect the public health, safety and welfare including, without limitation,
110 rules and regulations that establish and define the acts, services and delegated procedures
111 that may be performed by dental assistants, the level of supervision required by a
112 registered dentist, tiered classes or levels of practice and certification requirements for
113 each established class or level, education and training requirements, registration and
114 registration renewal procedures and requirements for the display of registration
115 certificates. The continuing education requirements set forth in section 51A shall not
116 apply to this section unless adopted by the board. A dental assistant shall not practice
117 dentistry as defined in section 50 or perform acts or services requiring the knowledge and
118 skill of a registered dentist, such as diagnoses, treatment planning, surgical or cutting
119 procedures on hard or soft tissue and the prescription of medications, or perform any acts
120 or services that require the training, knowledge or skill of a registered dental hygienist,
121 unless specifically authorized by regulation of the board and performed under the
122 appropriate supervision of a registered dentist; provided, however, that the board shall not
123 authorize a dental assistant to perform dental screenings, periodontal charting,
124 subgingival and supragingival scaling, root planing and curettage, minor emergency
125 dental adjustments, polishing of amalgam restorations, micro disk identification
126 applications or preliminary examinations for hygienist services. The board may without
127 examination, register as a dental assistant an applicant who is duly licensed or registered
128 under the laws of a state, territory or commonwealth of the United States or the District
129 of Columbia, where the requirements for licensure or registration are, in the opinion of

130 the board, equivalent to those in the commonwealth. A dental assistant shall register
131 biennially, which shall be in the year not so designated for the registration of dentists, and
132 shall pay a biennial registration fee determined under this section; provided, however,
133 that the board may issue an initial registration for not more than 2 years.

134 Notwithstanding the above registration requirement, a person who is at least 18 years of
135 age may practice as a dental assistant without being registered by the board for on-the-job
136 training or professional education training under the supervision of a registered dentist for
137 a preliminary and 1-time period of up to 6 consecutive months to commence from the
138 beginning of the initial training if the person: (i) has not been previously employed,
139 licensed or registered as a dentist, dental hygienist or dental assistant; (ii) prior to the
140 commencement of the training, provided written notification of such training to the board
141 on a form prescribed by the board and a certification by the supervising dentist
142 confirming that he will supervise the person during the training; and (iii) is not in
143 violation of any rule or regulation adopted by the board. The board may extend the
144 training period for an additional 6 months for a dental assistant who is enrolled in a
145 program of professional educational training for dental assistants offered by a college,
146 university or dental school authorized to confer degrees or by another dental institution or
147 association recognized by the board.

148 All registration applications and training notifications submitted to the board
149 under this section shall be signed under the penalties of perjury by the person certifying
150 the information contained therein. The board shall investigate all complaints relating to
151 the practice of dental assistants. The authority granted to the board in sections 43 to 53,
152 inclusive, shall include disciplining dental assistants who are registered or authorized to

153 practice for training purposes, and the board may exercise such authority by conducting
154 hearings regarding complaints or by suspending, revoking or cancelling any such
155 registration or authorization to practice as a dental assistant to protect the health, safety
156 and welfare of the public, in the same manner as with registered dentists and dental
157 hygienists.

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

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163 **SECTION 10.** Section 52 of said chapter 112, as appearing in the 2006 Official
164 Edition, is hereby amended by inserting after the word “hygiene”, in line 7, the following
165 words:- or as a dental assistant.

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167 **SECTION 11.** Said section 52 of said chapter 112, as so appearing, is hereby
168 further amended by striking out, in lines 7 and 8, the words “forty-five to fifty-one”, and
169 inserting in place thereof the following figures:- 45 to 51 1/2.

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171 **SECTION 12.** Chapter 118E of the General Laws is hereby amended by inserting
172 after section 2 the following section:-

173 Section 2A. (a) In order to improve, promote and protect oral health, there shall
174 be, in the office of Medicaid, a full-time director of dental services who shall work
175 collaboratively with the department of public health to facilitate the integration of

176 programs to improve oral health.

177 (b) The director of dental services shall be a dentist licensed in the commonwealth
178 who has public health experience and shall oversee the MassHealth dental program and
179 collaborate with the dental director at the department of public health and the office of
180 oral health on dental public health programs for MassHealth recipients to increase access
181 to oral health services, oral health prevention activities and other initiatives to address
182 oral health disparities including, but not limited to, workforce shortages.

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184 **SECTION 13.** Notwithstanding any general or special law the contrary, the office
185 of oral health in the department of public health shall evaluate programs and develop
186 quality assurance activities, which shall include, but not limited to, updating on the
187 progress made to date on the recommendations of the report of the special commission on
188 oral health filed pursuant to section 42 of chapter 170 of the acts of 1997. The update
189 shall be filed with the joint committee on public health not later than May 1, 2009.

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191 **SECTION 14.** Notwithstanding any general or special law the contrary, the
192 department of public health shall submit separate reports on public health dental
193 hygienists as defined in section 43A of chapter 112 of the General Laws, which shall
194 include, but not limited to, the current number of registered public health dental
195 hygienists, the public health settings in which they practice and the type of procedures or
196 services most commonly performed under that designation. The report shall also evaluate
197 whether the designation of public health dental hygienists has improved access to safe
198 and effective dental and dental hygiene services. The department shall submit the report,

199 along with any recommendations for legislative or other action, to the clerks of the senate
200 and house of representatives not later than July 1, 2010. The department shall submit a
201 subsequent report, along with any recommendations for legislative or other action, to the
202 clerks of the senate and house of representatives not later than July 1, 2013.

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204 **SECTION 15.** The department of public health, in consultation with the board of
205 registration in dentistry, shall determine an appropriate level of training for public health
206 dental hygienists pursuant to section 51 of chapter 112 of the General Laws not later than
207 6 months after the effective date of this act.

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209 **SECTION 16.** The board of registration in dentistry shall establish guidelines
210 pursuant to section 51 of chapter 112 of the General Laws not later than 6 months after
211 the effective date of this act.

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213 **SECTION 17.** Sections 4, 5, 8, 9, 10 and 11 shall take effect on July 1, 2009.”