

SENATE No. 2740

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

SENATE, April 22, 2024.

The committee on Public Health, to whom was referred the petitions (accompanied by bill, Senate, No. 1379) of Adam Gomez, Jason M. Lewis, Sal N. DiDomenico and James B. Eldridge for legislation to improve oral health for all Massachusetts residents; and (accompanied by bill, House, No. 2253) of Smitty Pignatelli and others for legislation to expand patient access to oral health care, report the accompanying bill (Senate, No. 2740).

For the committee,
Julian Cyr

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An Act to improve oral health for all Massachusetts residents..

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. Chapter 71 of the General Laws is hereby amended by inserting after
2 Section 34H the following new section:-

3 Section 34I. A public school shall notify the parent or legal guardian of a pupil described
4 in the second paragraph of section 57 of chapter 71 concerning the importance of oral health
5 screenings. The department of public health in, consultation with the board of registration in
6 dentistry, shall develop a standard form of notice containing at minimum the following: 1)
7 information on the importance of primary teeth; 2) information on the importance of oral health
8 to overall health as it relates to learning; 3) contact information for local public health
9 departments; 4) information about programs and services to access affordable dental care.

10 SECTION 2. Section 7 of chapter 94C of the General Laws, as appearing in the 2022
11 Official Edition, is hereby amended by striking out, in lines 80 and 81, the words "practical nurse
12 or a licensed dental hygienist", and inserting in place thereof the following words:- practical
13 nurse, or a licensed dental therapist under the supervision of a practitioner as defined in section 1

14 for the purposes of administering analgesics, anti-inflammatories and antibiotics only, or a
15 licensed dental hygienist.

16 SECTION 3. Paragraph (a) of section 9 of said chapter 94C, as so appearing, is hereby
17 amended by adding the following paragraph:-

18 A practitioner, as defined in section 1, may cause controlled substances to be
19 administered under his direction by a licensed dental therapist, for the purposes of administering
20 non-narcotic analgesics, anti-inflammatories and antibiotics only.

21 SECTION 4. Paragraph (c) of said section 9 of said chapter 94C, as so appearing, is
22 hereby amended by adding the following paragraph:-

23 A licensed dental therapist who has obtained a controlled substance from a practitioner,
24 as defined in section 1, for dispensing to an ultimate user pursuant to paragraph (a) shall return to
25 such practitioner any unused portion of the substance which is no longer required by the patient.

26 SECTION 5. Subsection (a) of section 40 of chapter 111 of the General Laws, as so
27 appearing, is hereby amended by inserting after the word "disparities", in line 9, the following:-

28 The dental director shall be responsible for recruiting, monitoring progress of, and
29 supporting dental health providers. The dental director shall aim to increase the delivery of
30 preventative dental services to underserved and vulnerable populations, including but not limited
31 to, those residing in dental health provider shortage communities and pediatric and geriatric
32 patients.

33 SECTION 6. Said section 40 of said chapter 111 is hereby further amended by inserting
34 after the word "to", in line 32, the following word:- "annual".

35 SECTION 7. Section 43A of chapter 112, as so appearing, is hereby amended by
36 inserting after the definition of "Appropriate supervision" the following 2 definitions:-

37 "Board", the board of registration in dentistry or a committee or subcommittee thereof
38 established in the department of public health pursuant to sections 9 and 19 of chapter 13,
39 chapter 30A and sections 43 to 53, inclusive.

40 "Collaborative management agreement", a written agreement that complies with section
41 B between a dental therapist and a supervising dentist, as defined in section 43A, who holds a
42 valid license issued pursuant to section 45, who agrees to provide the appropriate level of
43 communication and consultation with a licensed dental therapist to ensure patient health and
44 safety.

45 SECTION 8. Said section 43A of said chapter 112, as so appearing, is hereby further
46 amended by inserting after the definition of "Dental hygienist" the following definition:-

47 "Dental therapist", a person who has been licensed by the board to practice dental therapy
48 under section 51B, and who has the appropriate training and works pursuant to a collaborative
49 management agreement as provided in section 51B.

50 SECTION 9. Said section 43A of said chapter 112, as so appearing, is hereby further
51 amended by adding the following definition:-

52 "Supervising dentist", a dentist licensed in Massachusetts who is a provider enrolled in
53 the division of medical assistance, or who works for an entity that is a provider enrolled in
54 division of medical assistance, who maintains an active patient list and routinely provides care,
55 and who enters into a collaborative management agreement with a licensed dental therapist.

56 SECTION 10. Said chapter 112, as so appearing, is hereby further amended by inserting
57 after section 51A the following section:-

58 Section 51B. (a) Any person of good moral character, who: (i) is a graduate of a master's
59 level dental therapist education program that includes both dental therapy and dental hygiene
60 education, or an equivalent combination of both dental therapy education and dental hygiene
61 education, if all education programs are accredited by the Commission on Dental Accreditation
62 and provided by a post-secondary institution accredited by the New England Association of
63 Schools and Colleges, Inc.; (ii) passes a comprehensive, competency-based clinical examination
64 that is approved by the board and administered by a recognized national or regional dental
65 testing service that administers testing for dentists and other dental professionals or equivalent
66 examination administered by another entity approved by the board; and (iii) obtains a policy of
67 professional liability insurance and shows proof of such insurance as required by rules and
68 regulations shall, upon payment of a fee to be determined annually by the commissioner of
69 administration under the provision of section 3B of chapter 7, be licensed as a dental therapist
70 and be given a certificate to practice in this capacity. A licensed dental therapist shall have
71 practiced under the direct supervision of a supervising dentist for a minimum of 2 years or 2,500
72 hours, whichever is longer, before practicing under general supervision pursuant to a
73 collaborative management agreement.

74 For the purposes of this section, "general supervision" shall mean supervision of
75 procedures and services based on a written collaborative management agreement between a
76 licensed dentist and a licensed dental therapist but not requiring a prior exam or diagnosis by a
77 supervising dentist or the physical presence of a supervising dentist during the performance of

78 those procedures and services unless required by the supervising dentist in the collaborative
79 management agreement.

80 (b) Any person licensed as a dental therapist under this section may also be registered as
81 a dental hygienist and be given a certificate to practice in this capacity.

82 (c) An applicant for licensure as a dental therapist educated in the commonwealth must
83 graduate from a master's level dental therapy education program that is accredited by the
84 Commission on Dental Accreditation provided by a post-secondary institution accredited by the
85 New England Association of Schools and Colleges, Inc. All dental therapy educational programs
86 in the commonwealth must include at least one licensed dentist as an instructor. The board shall
87 provide guidance for any educational entity or institution that may operate all or some portion of
88 a master's level program, or may collaborate with other educational entities, including but not
89 limited to universities, colleges, community colleges, and technical colleges, to operate all or
90 some portion of a master's level program. The board may also provide guidance to develop
91 mechanisms to award advanced standing to students who have completed coursework at other
92 educational programs accredited by the Commission on Dental Accreditation. All education
93 programs must prepare students to perform all procedures and services within the dental therapy
94 scope of practice as set forth in this section.

95 The educational curriculum for a dental therapist educated in the commonwealth shall
96 include training on serving patients with special needs including, but not limited to, people with
97 developmental disabilities including autism spectrum disorders, mental illness, cognitive
98 impairment, complex medical problems, significant physical limitations and the vulnerable
99 elderly.

100 Not later than January 1, 2025, the board shall approve a comprehensive, competency-
101 based clinical dental therapy examination that includes assessment of technical competency in
102 performing the procedures and services within the scope of practice as set forth in this section, to
103 be administered by a recognized national or regional dental testing service that administers
104 testing for dentists and other dental professionals. The examination shall be comparable to the
105 examination given to applicants for a dental license but only for the limited scope of dental
106 services in the dental therapy scope of practice as set forth in this section.

107 (d) The board shall grant a dental therapy license by examination to an applicant, upon
108 payment of a fee as determined annually by the secretary of administration and finance under
109 section 3B of chapter 7, provided the applicant is of good moral character and has: (i) met the
110 eligibility requirements as defined by the board; (ii) submitted documentation to the board of a
111 passing score on a comprehensive, competency-based clinical examination, or combination of
112 examinations, that includes both dental therapy and dental hygiene components and is approved
113 by the board and administered by a recognized national or regional dental testing service that
114 administers testing for dentists and other dental professionals; and (iii) submitted to the board
115 documentation of a passing score on the Massachusetts Dental Ethics and Jurisprudence
116 Examination or any other successor examination. An applicant failing to pass the examination
117 shall be entitled to re-examination pursuant to the rules and guidelines established by the
118 Commission on Dental Competency Assessments, for which the applicant shall pay a fee as
119 determined annually by the secretary of administration and finance under section 3B of chapter
120 7.

121 The board shall require as a condition of granting or renewing a license under this
122 section, that the dental therapist apply to participate in the medical assistance program

123 administered by the secretary of health and human services in accordance with chapter 118E and
124 Title XIX of the Social Security Act and any federal demonstration or waiver relating to such
125 medical assistance program for the limited purposes of ordering and referring services covered
126 under such program, provided that regulations governing such limited participation are
127 promulgated under said chapter 118E. A dental therapist practicing in a dental therapist role who
128 chooses to participate in such medical assistance program as a provider of services shall be
129 deemed to have fulfilled this requirement.

130 The board shall grant a license by credentials, without further professional examination,
131 to a dental therapist licensed in another jurisdiction, upon payment of a fee as determined
132 annually by the secretary of administration and finance under section 3B of chapter 7, provided
133 the applicant is of good moral character and has: (i) met the eligibility requirements as defined
134 by the board; (ii) furnished the board with satisfactory proof of graduation from an education
135 program, or combination of education programs, providing both dental therapy and dental
136 hygiene education that meets the standards of the Commission on Dental Accreditation,
137 provided, however, that an applicant who graduated from a dental therapy education program
138 established before the Commission on Dental Accreditation established a dental therapy
139 accreditation program is eligible notwithstanding the lack of accreditation of the program at the
140 time the education was received; (iii) submitted documentation of a passing score on a dental
141 therapy examination administered by another state or testing agency that is substantially
142 equivalent to the board-approved dental therapy examination for dental therapists as defined in
143 this section; (iv) submitted documentation of a passing score on the Massachusetts Dental Ethics
144 and Jurisprudence Examination or any other successor examination; and (v) submitted
145 documentation of completion of 2 years or 2,500 hours, whichever is longer, of practice. If such

146 practice requirement is not met, a dental therapist shall be required to complete the remaining
147 hours or years, whichever is longer, under direct supervision in the Commonwealth prior to
148 practicing under general supervision.

149 (e) Pursuant to a collaborative management agreement, a dental therapist licensed by the
150 board may perform: (i) all acts of a public health dental hygienist as set forth in regulations of the
151 board and (ii) all acts in the Commission on Dental Accreditation's dental therapy standards.
152 Dental therapists shall have the authority to perform an oral evaluation and assessment of dental
153 disease and formulate an individualized treatment plan as authorized by the supervising dentist in
154 the collaborative management agreement. A dental therapist may dispense and administer the
155 following medications within the parameters of the collaborative management agreement and
156 with the authorization of the supervising dentist: non-narcotic analgesics, anti- inflammatories
157 and antibiotics. The authority to dispense and administer shall extend only to the categories of
158 drugs identified in this paragraph and may be further limited by the collaborative management
159 agreement. A dental therapist is prohibited from dispensing or administering narcotic analgesics.
160 A dental therapist may oversee not more than 2 dental hygienists and 2 dental assistants, but
161 shall not oversee public health dental hygienists.

162 After entering into a collaborative management agreement with a supervising dentist,
163 dental therapists shall practice under direct supervision for not less than 2,500 clinical hours or
164 two years, whichever is longer. After completing 2,500 clinical hours or two years, whichever is
165 longer, of practice under direct supervision, dental therapists are authorized to perform all
166 procedures and services listed in the Commission on Dental Accreditation's dental therapy
167 standards and all procedures and services within the scope of a public health dental hygienist, as
168 set forth in regulations by the board, under general supervision if authorized by a supervising

169 dentist pursuant to a written collaborative agreement. In addition, the following procedures,
170 referred to in this section as advanced procedures, may be performed under direct supervision: (i)
171 preparation and placement of direct restoration in primary and permanent teeth; (ii) fabrication
172 and placement of single-tooth temporary crowns; (iii) preparation and placement of preformed
173 crowns on primary teeth; (iv) indirect and direct pulp capping on permanent teeth; (v) indirect
174 pulp capping on primary teeth; and (vi) simple extractions of erupted primary teeth, provided
175 however that the advanced procedures may be performed under general supervision if authorized
176 by the board pursuant to subsection (f) of this section.

177 Pursuant to a collaborative management agreement, a dental therapist may provide
178 procedures and services permitted under general supervision when the supervising dentist is not
179 on-site and has not previously examined or diagnosed the patient provided the supervising
180 dentist is available for consultation and supervision if needed through telemedicine or by other
181 means of communication. If the supervising dentist will not be available, arrangements shall be
182 made for another licensed dentist to be available to provide timely consultation and supervision.

183 A dental therapist may not operate independently of, and may not practice or treat any
184 patients without, a supervising dentist. A dental therapist is prohibited from practicing without
185 entering into a collaborative management agreement with a supervising dentist.

186 (f) By January 1, 2025, the department of public health, in consultation with the board
187 and any other entity they deem appropriate, shall begin an evaluation assessing the impact of
188 dental therapists practicing under general supervision in Massachusetts and the rest of the United
189 States, specifically on: (i) dental therapists' progress in expanding access to safe and effective
190 dental services for vulnerable populations including, at a minimum, Medicaid beneficiaries and

191 individuals who are underserved as defined in this section; (ii) an appropriate geographic
192 distance limitation between the dental therapist and supervising dentist that permits the dental
193 therapist to expand access to vulnerable populations including, at a minimum, Medicaid
194 beneficiaries and individuals who are underserved as defined in this section; and (iii) the number
195 of dental hygienists and dental assistants a dental therapist may oversee.

196 Not before January 1, 2026 and no later than December 1, 2027, the department of public
197 health, in consultation with the board and any other entity they deem appropriate, shall make a
198 recommendation, based on its assessment of whether dental therapists should be authorized to
199 perform one or more of the advanced procedures, as defined in subsection (e) under general
200 supervision pursuant to a collaborative management agreement. The department shall also make
201 a recommendation on an appropriate geographic distance limitation between the dental therapist
202 and supervising dentist that permits the dental therapist to expand access to vulnerable
203 populations including, at a minimum, individuals receiving benefits through the division of
204 medical assistance and individuals who are underserved as defined in this section. After the
205 department completes its assessment and submits its recommendations to the board, the board
206 shall make a determination, with consideration to how authorizing general supervision will
207 expand access to safe and effective dental services for vulnerable populations including, at a
208 minimum, individuals receiving benefits through the division of medical assistance and
209 individuals who are underserved as defined in this section, whether to authorize performance of
210 one or more of the procedures as identified in subsection (e), under general supervision pursuant
211 to a collaborative management agreement.

212 Should the board, in consultation with the department and any other appropriate entity,
213 determine that dental therapists shall have the authority to perform one or more of the procedures

214 and services as identified in subsection (e) in their scope of practice under general supervision,
215 then the board shall establish regulations no later than six months following the recommendation,
216 authorizing dental therapists to perform one or more procedures as identified in subsection (e)
217 under general supervision pursuant to a collaborative management agreement after receiving
218 advanced practice certification.

219 The board shall grant advanced practice certification for a dental therapist licensed by the
220 board to perform all services under general supervision pursuant to a collaborative management
221 agreement if the dental therapist provides documentation of completion of at least two years or
222 2,500 hours, whichever is longer, of direct supervision pursuant to subsection (a) of this section,
223 and satisfying any other criteria established by regulation adopted by the board as authorized in
224 this section.

225 Should the board determine that dental therapists shall continue to perform one or more
226 of the advanced procedures under direct supervision, the department, in consultation with the
227 board, shall re-evaluate annually the impact of dental therapists practicing under general
228 supervision in Massachusetts and the rest of the United States, and the board shall annually
229 reassess whether to authorize general supervision for the advanced procedures in order to
230 improve dental therapists' progress in expanding access to safe and effective dental services for
231 vulnerable populations including, at a minimum, individuals receiving benefits through the
232 division of medical assistance and individuals who are underserved as defined in this section.

233 (g) The board shall establish appropriate guidelines for a written collaborative
234 management agreement. A collaborative management agreement shall be signed and maintained
235 by the supervising dentist and the dental therapist and shall be submitted annually to the board.

236 The agreement may be updated as necessary. The agreement shall serve as standing
237 orders from the supervising dentist and shall address: (i) practice settings; (ii) any limitation on
238 services established by the supervising dentist; (iii) the level of supervision required for various
239 services or treatment settings; (iv) patient populations that may be served; (v) practice protocols;
240 (vi) record keeping; (vii) managing medical emergencies; (viii) quality assurance; (ix)
241 administering and dispensing medications; (x) geographic distance limitations; (xi) oversight of
242 dental hygienists and dental assistants; and (xii) referrals for services outside of the dental
243 therapy scope of practice. The collaborative management agreement shall include specific
244 protocols to govern situations in which the dental therapist encounters a patient who requires
245 treatment that exceeds the authorized scope of practice of the dental therapist. The supervising
246 dentist is responsible for directly providing, or arranging for another dentist or specialist within
247 an accessible geographic distance to provide, any necessary additional services outside of the
248 dental therapy scope of practice needed by the patient. A supervising dentist may have a
249 collaborative management agreement with not more than 3 dental therapists at the same time.
250 Not more than 2 of the dental therapists may practice under general supervision with certification
251 to perform one or more of the advanced procedures. A practice or organization with more than
252 one practice location listed under the same business name may not employ more than six dental
253 therapists, provided, however, that this requirement shall not apply if such an organization or
254 practice is a federally qualified health center or look-alike, a community health center, a non-
255 profit practice or organization, public health setting as defined by 234 CMR 2.02, or as otherwise
256 permitted by the board.

257 (h) No medical malpractice insurer shall refuse primary medical malpractice insurance
258 coverage to a licensed dentist on the basis of whether they entered into a collaborative

259 management agreement with a dental therapist or public health dental hygienist. A dental
260 therapist may not bill separately for services rendered; the services of the dental therapist are the
261 services of the supervising dentist and shall be billed as such.

262 (i) Not less than 50% of the patient panel of a dental therapist, as determined in each
263 calendar year, shall consist of patients who receive coverage through the division of medical
264 assistance or are considered underserved provided, however, that this requirement shall not apply
265 if the dental therapist is operating in a federally qualified health center or look-alike, community-
266 health center, non-profit practice or organization, or other public health setting as defined by 234
267 CMR 2.02, or as otherwise permitted by the board. As used in this section, "underserved" means
268 individuals who: (i) receive, or are eligible to receive, benefits through the division of medical
269 assistance; (ii) receive, or are eligible to receive, social security disability benefits, supplemental
270 security income, and/or Massachusetts state supplement program; (iii) live in a dental health
271 professional shortage area as designated by the federal department of health and human services;
272 (iv) reside in a long-term care facility licensed under section 71 of chapter 111; (v) receive dental
273 services at a public health setting as defined by 234 CMR 2.02; (vi) receive benefits, or are
274 eligible to receive subsidized insurance through the commonwealth health insurance connector
275 authority;; (viii) receive benefits, or are eligible to receive benefits, through the Indian Health
276 Service, tribal or urban Indian organizations, or through the contract health service program; (ix)
277 receive benefits, or are eligible to receive benefits, through the federal department of veterans
278 affairs or other organization serving veterans; (x) are elderly and have trouble accessing dental
279 care due to mobility or transportation challenges; (xi) meet the Commission on Dental
280 Accreditation's definition of people with special needs; (xii) are uninsured have an annual

281 income at or below 305% of the federal poverty level; or (xiii) as otherwise permitted by the
282 board.

283 An employer of a dental therapist shall submit quarterly reports to the board that provide
284 information concerning the makeup of the dental therapist's patient panel, including the
285 percentage of underserved in the patient panel. No later than January 1, 2025, the secretary of
286 health and human services may establish by regulation penalties for employers who fail to meet
287 the requirements pertaining to the percentage of underserved in the dental therapist's patient
288 panel.

289 (j) Not later than January 1, 2026, the board, in consultation with the department shall
290 establish regulations to implement the provisions of this section for the practice of dental therapy
291 to protect the public health, safety and welfare, including, but not limited to: requirements for
292 approval of educational programs; guidelines for collaborative management agreements,
293 continuing education requirements, license renewal, standards of conduct, and the investigation
294 of complaints, conduct of disciplinary proceedings and grounds for discipline.

295 SECTION 11. Section 259 of chapter 112 of the General Laws, as so appearing, is hereby
296 amended by inserting after the word "skills", in line 51, the following:

297 (j) Oral health education;

298 SECTION 12. Section 260 of chapter 112 of the General Laws, as so appearing, is hereby
299 amended by inserting after the number 7, in line 21, the following:- As a condition for licensure
300 or renewal of licensure, the board shall require community health workers to receive education
301 or training in oral health.

302 SECTION 13. Section 79L of chapter 233, as so appearing, is hereby amended by
303 inserting after the word "dentist," the following words:- dental therapist.

304 SECTION 14. The department of public health, in consultation with the executive office
305 of health and human services, shall perform a 5-year evaluation of the impact of dental
306 therapists, as established under section 51B of chapter 112 of the General Laws, on patient
307 safety, cost-effectiveness and access to dental services. The department may enter into an inter-
308 agency agreement with the health policy commission, established under chapter 6D of the
309 General Laws, to provide assistance to the department in conducting such evaluation, as it deems
310 necessary. The department shall ensure effective measurements of the following outcomes and
311 file a report of its findings, which shall include the:

- 312 (i) Number of dental therapists in the commonwealth each year;
- 313 (ii) Number of licensed dental therapists in the commonwealth each year;
- 314 (iii) Number of new and total patients served each year;
- 315 (iv) Impact on wait times for needed services;
- 316 (v) Impact on travel time for patients;
- 317 (vi) Impact on emergency room usage for dental care; and
- 318 (vii) Costs to the public health care system.

319 The report shall be submitted not later than five years after the date of graduation of the
320 first graduating class of dental therapists educated in the commonwealth to the joint committee

321 on public health, the joint committee on health care financing and the senate and house
322 committees on ways and means.

323 The center for health information and analysis shall, by the first day of January of each
324 year, submit a report including information on:

325 (i) Number of dental therapists in the commonwealth;

326 (ii) Number of licensed dental therapists practicing in the commonwealth;

327 (iii) Number of new and total patients served;

328 (iv) Number of new and total pediatric patients served, including geographic location and
329 insurance type;

330 (v) Practice settings; and

331 (vi) Commonly performed procedures and services

332 The first annual report shall be submitted not later than three years after the date of
333 graduation of the first graduating class of dental therapists educated in the commonwealth to the
334 joint committee on public health, the joint committee on health care financing and the senate and
335 house committees on ways and means.