

By: Thompson of Harris

H.B. No. 1940

A BILL TO BE ENTITLED

AN ACT

relating to the improvement of oral health care access through the regulation of dental hygiene practitioners, dental hygienists, and dentists in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 256, Occupations Code, is amended to read as follows:

CHAPTER 256. LICENSING OF DENTISTS, ~~[AND]~~ DENTAL HYGIENISTS, AND DENTAL HYGIENE PRACTITIONERS

SECTION 2. Chapter 256, Occupations Code, is amended by adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. ISSUANCE OF LICENSE TO DENTAL HYGIENE PRACTITIONER

Sec. 256.081. DEFINITION. In this chapter, "dental hygiene practitioner" means a person who practices dental hygiene therapy under a license issued under this chapter.

Sec. 256.082. LICENSE REQUIRED. A person may not practice or offer to practice dental hygiene therapy in this state unless the person is licensed under this chapter.

Sec. 256.083. ELIGIBILITY FOR LICENSE. An applicant for a license to practice dental hygiene therapy in this state must:

(1) be at least 18 years of age;

(2) be of good moral character;

(3) be a licensed dental hygienist;

(4) have obtained an associate's or bachelor's degree

1 in dental hygiene from a public or private institution of higher  
2 education or other postsecondary institution accredited by:

3 (A) an accrediting agency recognized by the Texas  
4 Higher Education Coordinating Board; and

5 (B) the Commission on Dental Accreditation of the  
6 American Dental Association or a successor organization;

7 (5) after having obtained an associate's degree in  
8 dental hygiene or having completed coursework equivalent to an  
9 associate's degree in dental hygiene as part of a bachelor's degree  
10 in dental hygiene, have successfully completed a dental hygiene  
11 practitioner program that:

12 (A) is accredited by the Commission on Dental  
13 Accreditation of the American Dental Association or a successor  
14 organization;

15 (B) consists of a minimum of four semesters;

16 (C) has a curriculum that:

17 (i) is consistent with the model curriculum  
18 for dental hygiene practitioner programs adopted by the American  
19 Association of Public Health Dentistry or a successor organization;

20 (ii) is consistent with the curriculum  
21 followed by dental hygiene practitioner programs in other states;  
22 and

23 (iii) has been approved by the board; and

24 (D) meets the requirements for dental hygiene  
25 practitioner programs adopted by the board; and

26 (6) have passed the examination required by Section  
27 256.085.

1       Sec. 256.084. APPLICATION FOR EXAMINATION. To take the  
2 examination under Section 256.085, an applicant for a license must:

3           (1) submit an application on a form prescribed by the  
4 board;

5           (2) pay the application fee set by the board;

6           (3) include with the application:

7               (A) proof of current certification in  
8 cardiopulmonary resuscitation approved by the American Heart  
9 Association or American Red Cross; or

10               (B) if the applicant is not physically able to  
11 comply with the certification requirement of Paragraph (A), a  
12 written statement describing the person's physical incapacity  
13 executed by a physician or an instructor in cardiopulmonary  
14 resuscitation approved by the American Heart Association or  
15 American Red Cross; and

16           (4) provide any other information the board requires  
17 to determine the applicant's qualifications.

18       Sec. 256.085. LICENSE EXAMINATION. (a) The board shall  
19 provide for the examination of an applicant for a dental hygiene  
20 practitioner license.

21           (b) The examination must include subjects and operations  
22 relating to dentistry and dental hygiene therapy, including  
23 subjects regularly taught in schools of dentistry and in dental  
24 hygiene practitioner programs accredited by an accrediting agency  
25 recognized by the Texas Higher Education Coordinating Board.

26           (c) The board shall contract with one or more independent or  
27 regional testing services for any required clinical examination. If

1 the board uses one or more regional testing services, the board may  
2 contract for or otherwise use licensed dental hygiene practitioners  
3 to provide assistance to the regional testing service or services.

4 (d) The board shall have the written portion of the board's  
5 jurisprudence examination validated by an independent testing  
6 professional.

7 Sec. 256.086. EXAMINATION RESULTS. (a) The board shall  
8 notify each examinee of the results of the examination within a  
9 reasonable time after the date of the examination.

10 (b) If the board contracts with an independent or regional  
11 testing service, the contract with the service must provide for the  
12 notification of results.

13 Sec. 256.087. REEXAMINATION. (a) The board by rule shall  
14 establish the conditions under which and the number of times an  
15 applicant may retake an examination.

16 (b) The board may require an applicant who fails the  
17 examination to meet additional education requirements set by the  
18 board.

19 Sec. 256.088. ISSUANCE OF LICENSE. The board shall issue a  
20 license to practice dental hygiene therapy to an applicant who  
21 meets the eligibility requirements of Section 256.083.

22 Sec. 256.089. MAINTENANCE OF DENTAL HYGIENE LICENSE NOT  
23 REQUIRED. A dental hygiene practitioner is not required to  
24 maintain an active license to practice dental hygiene.

25 SECTION 3. Sections 256.101(a) and (a-1), Occupations Code,  
26 are amended to read as follows:

27 (a) The board shall issue a license to practice dentistry to

1 a qualified [~~reputable~~] dentist, a license to practice dental  
2 hygiene therapy to a qualified dental hygiene practitioner, or a  
3 license to practice dental hygiene to a qualified [~~reputable~~]  
4 dental hygienist who:

5 (1) pays the fee set by the board;

6 (2) is licensed in good standing as a dentist, dental  
7 hygiene practitioner, or dental hygienist in another state that has  
8 licensing requirements substantially equivalent to the  
9 requirements of this subtitle;

10 (3) has not been the subject of a final disciplinary  
11 action and is not the subject of a pending disciplinary action in  
12 any jurisdiction in which the dentist, dental hygiene practitioner,  
13 or dental hygienist is or has been licensed;

14 (4) has graduated from a dental or dental hygiene  
15 school or a dental hygiene practitioner program accredited by the  
16 Commission on Dental Accreditation of the American Dental  
17 Association and approved by the board under board rule;

18 (5) has passed a national or other examination  
19 relating to dentistry, dental hygiene therapy, or dental hygiene  
20 and recognized by the board;

21 (6) has passed the board's jurisprudence examination;

22 (7) has submitted documentation of current  
23 cardiopulmonary resuscitation certification;

24 (8) has practiced dentistry, dental hygiene therapy,  
25 or dental hygiene:

26 (A) for at least the three years preceding the  
27 date of application for a license under this section; or

1 (B) as a dental educator at a dental school or  
2 dental hygiene school or in a dental hygiene practitioner program  
3 accredited by the Commission on Dental Accreditation of the  
4 American Dental Association for at least the five years preceding  
5 the date of application for a license under this section;

6 (9) has been endorsed by the board of dentistry in the  
7 jurisdiction in which the applicant practices at the time of  
8 application; and

9 (10) meets any additional criteria established by  
10 board rule.

11 (a-1) The board by rule shall specify the circumstances  
12 under which the board may waive the requirement under Subsection  
13 (a)(8) that an applicant for a license under this section has been  
14 continuously engaged in the practice of dentistry, dental hygiene  
15 therapy, or dental hygiene during the period required by that  
16 subsection if the applicant has engaged in the practice of  
17 dentistry, dental hygiene therapy, or dental hygiene for a  
18 cumulative total of at least three years before the date of  
19 application for a license under this section.

20 SECTION 4. Sections [256.1013](#)(a) and (c), Occupations Code,  
21 are amended to read as follows:

22 (a) The board may issue a provisional license to an  
23 applicant currently licensed in another jurisdiction who seeks a  
24 license in this state and who:

25 (1) has been licensed in good standing as a dentist,  
26 dental hygiene practitioner, or dental hygienist for at least two  
27 years in another jurisdiction that has licensing requirements

1 substantially equivalent to the requirements of this subtitle;

2 (2) is a graduate of a recognized school of dentistry  
3 or dental hygiene or a dental hygiene practitioner program  
4 accredited by the Commission on Dental Accreditation of the  
5 American Dental Association and approved by the board;

6 (3) has passed a national or other examination  
7 recognized by the board relating to the practice of dentistry,  
8 dental hygiene therapy, or dental hygiene, as appropriate; and

9 (4) is sponsored by a person who holds an appropriate  
10 license under this subtitle and with whom the provisional license  
11 holder will practice during the time the person holds a provisional  
12 license.

13 (c) A provisional license is valid until the date the board  
14 approves or denies the provisional license holder's application for  
15 a license. The board shall issue a license under this subtitle to  
16 the provisional license holder if:

17 (1) the provisional license holder is eligible to be  
18 licensed under Section 256.101; or

19 (2) the provisional license holder passes the part of  
20 the examination under Section 256.003, ~~[or]~~ 256.055, or 256.085  
21 that relates to the applicant's knowledge and understanding of the  
22 laws and rules relating to the practice of dentistry, dental  
23 hygiene therapy, or dental hygiene, as appropriate, in this state  
24 and:

25 (A) the board verifies that the provisional  
26 license holder meets the academic and experience requirements for a  
27 license under this subtitle; and

1 (B) the provisional license holder satisfies any  
2 other licensing requirements under this subtitle.

3 SECTION 5. Section 256.1015(a), Occupations Code, is  
4 amended to read as follows:

5 (a) The board, upon payment by the applicant of a fee set by  
6 the board, shall grant a temporary license to practice dentistry to  
7 any qualified [reputable] dentist, a temporary license to practice  
8 dental hygiene therapy to any qualified dental hygiene  
9 practitioner, or a temporary license to practice dental hygiene to  
10 any qualified [reputable] dental hygienist who:

11 (1) meets all requirements of Section 256.101 except  
12 those of Subsection (a)(8); and

13 (2) is employed by a nonprofit corporation that  
14 accepts Medicaid reimbursement.

15 SECTION 6. Section 256.103(a), Occupations Code, is amended  
16 to read as follows:

17 (a) A licensed dentist, dental hygiene practitioner, or  
18 dental hygienist shall display the person's current registration  
19 certificate in each office in which the person provides dental  
20 services. If the dentist, dental hygiene practitioner, or dental  
21 hygienist provides dental services at more than one location, the  
22 person may display a duplicate of the original registration  
23 certificate obtained from the board on payment of a duplicate  
24 certificate fee set by the board.

25 SECTION 7. Section 256.105(a), Occupations Code, is amended  
26 to read as follows:

27 (a) Each dentist, dental hygiene practitioner, dental



1 hygienist, and owner or manager of a dental laboratory licensed or  
2 registered with the board shall timely notify the board of:

3 (1) any change of address of the person's place of  
4 business;

5 (2) any change of employers for the dentist, dental  
6 hygiene practitioner, or dental hygienist and any change of owners  
7 or managers for the dental laboratory; and

8 (3) any change of the person's mailing address.

9 SECTION 8. Section 257.004, Occupations Code, is amended to  
10 read as follows:

11 Sec. 257.004. CARDIOPULMONARY RESUSCITATION REQUIREMENTS.

12 (a) A person holding a dental, ~~or~~ dental hygienist, or dental  
13 hygiene practitioner license must submit at the time the person  
14 applies for renewal of the license:

15 (1) a written statement executed by the person stating  
16 that the person has successfully completed a current program or  
17 course in cardiopulmonary resuscitation that includes a  
18 demonstration of skills and a written evaluation; or

19 (2) if the person is not physically able to comply with  
20 the requirements of Subdivision (1), a written statement describing  
21 the person's physical incapacity executed by a licensed physician.

22 (b) ~~(c)~~ A dentist, ~~or~~ dental hygienist, or dental  
23 hygiene practitioner licensed by the board who resides in a country  
24 other than the United States on the renewal date of the person's  
25 license and has not practiced dentistry, ~~or~~ dental hygiene, or  
26 dental hygiene therapy in the United States during the year  
27 preceding the renewal date is exempt from the requirements of

1 Subsection (a) if the person submits proof of foreign residence  
2 with the person's renewal application.

3 SECTION 9. The heading to Section 257.005, Occupations  
4 Code, is amended to read as follows:

5 Sec. 257.005. CONTINUING EDUCATION FOR DENTIST, DENTAL  
6 HYGIENE PRACTITIONER, AND DENTAL HYGIENIST.

7 SECTION 10. Section 257.005(a), Occupations Code, is  
8 amended to read as follows:

9 (a) The board shall develop a mandatory continuing  
10 education program for licensed dentists, dental hygiene  
11 practitioners, and dental hygienists. The board by rule shall  
12 require a license holder to complete at least 12 hours of continuing  
13 education for each annual registration period to renew the license  
14 for a subsequent annual period.

15 SECTION 11. Section 258.001, Occupations Code, is amended  
16 to read as follows:

17 Sec. 258.001. [~~IMPERMISSIBLE~~] DELEGATIONS. A dentist may  
18 not delegate:

19 (1) an act to an individual who, by board order, is  
20 prohibited from performing the act;

21 (2) any of the following acts to a person not licensed  
22 as a dentist, dental hygiene practitioner, or dental hygienist:

23 (A) the removal of calculus, deposits, or  
24 accretions from the natural and restored surfaces of exposed human  
25 teeth and restorations in the human mouth;

26 (B) root planing or the smoothing and polishing  
27 of roughened root surfaces or exposed human teeth; or

1 (C) any other act the delegation of which is  
2 prohibited by board rule;

3 (3) any of the following acts to a person not licensed  
4 as a dentist or dental hygiene practitioner:

5 (A) initial assessment or [~~comprehensive~~]  
6 examination or diagnosis and treatment planning;

7 (B) [~~a surgical or cutting procedure on hard or~~  
8 ~~soft tissue,~~

9 [~~(C)~~] the prescription of a drug, medication, or  
10 work authorization;

11 (C) [~~(D)~~] the taking of an impression for a final  
12 restoration, appliance, or prosthesis; or

13 (D) [~~(E)~~] the making of an intraoral occlusal  
14 adjustment; or

15 (4) any of the following acts to a person not licensed  
16 as a dentist:

17 (A) a surgical or cutting procedure on hard or  
18 soft tissue;

19 (B) direct pulp capping, pulpotomy, or any other  
20 endodontic procedure;

21 (C) the final placement and intraoral adjustment  
22 of a fixed or removable appliance; or

23 (D) the placement of any final restoration  
24 [~~(F) direct pulp capping, pulpotomy, or any other~~  
25 ~~endodontic procedure,~~

26 [~~(C) the final placement and intraoral~~  
27 ~~adjustment of a fixed or removable appliance; or~~

1                   ~~[(H) the placement of any final restoration; or~~  
2                   ~~[(4) the authority to an individual to administer a~~  
3 ~~local anesthetic agent, inhalation sedative agent, parenteral~~  
4 ~~sedative agent, or general anesthetic agent if the individual is~~  
5 ~~not licensed as:~~

6                   ~~[(A) a dentist with a permit issued by the board~~  
7 ~~for the procedure being performed, if a permit is required;~~

8                   ~~[(B) a certified registered nurse anesthetist~~  
9 ~~licensed by the Texas Board of Nursing, only if the delegating~~  
10 ~~dentist holds a permit issued by the board for the procedure being~~  
11 ~~performed, if a permit is required; or~~

12                   ~~[(C) a physician anesthesiologist licensed by~~  
13 ~~the Texas Medical Board].~~

14           SECTION 12. Subchapter A, Chapter 258, Occupations Code, is  
15 amended by adding Section 258.004 to read as follows:

16           Sec. 258.004. COLLABORATIVE PRACTICE WITH DENTAL HYGIENIST  
17 OR DENTAL HYGIENE PRACTITIONER. (a) In this section,  
18 "collaborative practice agreement" means a written practice  
19 agreement and protocols for the practice of dental hygiene or  
20 dental hygiene therapy.

21           (b) A dental hygienist may practice dental hygiene or a  
22 dental hygiene practitioner may practice dental hygiene therapy  
23 under a collaborative practice agreement with a dentist if the  
24 dental hygienist or dental hygiene practitioner:

25                   (1) has been engaged in the practice of dental hygiene  
26 or dental hygiene therapy, as applicable, for at least one year with  
27 a minimum of 2,000 practice hours;

1           (2) completes annually an eight-hour continuing  
2 education program that includes instruction in medical emergency  
3 procedures, risk management, and professional ethics;

4           (3) completes a jurisprudence class every three years;  
5 and

6           (4) pays the required fee.

7           (c) A dental hygienist may enter into a collaborative  
8 practice agreement to practice dental hygiene in any setting  
9 authorized by law for the practice of dental hygiene. A dental  
10 hygiene practitioner may enter into a collaborative practice  
11 agreement to practice dental hygiene therapy in any setting  
12 authorized by law for the practice of dental hygiene therapy.

13           (d) A collaborative practice agreement must include  
14 protocols:

15           (1) describing the practice of dental hygiene or  
16 dental hygiene therapy for:

17                   (A) medically compromised patients;

18                   (B) specific medical conditions;

19                   (C) patients with needs related to age; and

20                   (D) patients with complex medical histories;

21           (2) prescribing standards for specific dental hygiene  
22 or dental hygiene therapy procedures, including intervals for the  
23 performance of those procedures;

24           (3) prescribing intervals at which a supervising  
25 dentist must examine a patient;

26           (4) describing the services that the dental hygienist  
27 or dental hygiene practitioner may provide, the procedures that the

1 dental hygienist or dental hygiene practitioner may perform, the  
2 practice settings in which the services may be provided and the  
3 procedures may be performed, and any limitations on the services  
4 and procedures;

5 (5) describing case selection criteria, assessment  
6 guidelines, and imaging frequency guidelines for patients by age  
7 and in relation to specific procedures;

8 (6) prescribing procedures for obtaining informed  
9 consent from patients and for creating and maintaining patient  
10 records;

11 (7) establishing a plan for the dentist to review  
12 patient records created and maintained by the dental hygienist or  
13 dental hygiene practitioner;

14 (8) establishing a plan for the management of medical  
15 emergencies in each setting in which the dental hygienist or dental  
16 hygiene practitioner practices;

17 (9) establishing a quality assurance plan for the  
18 dentist to monitor care provided by the dental hygienist or dental  
19 hygiene practitioner, including review of patient care, referrals,  
20 and charts;

21 (10) describing the medications that may be  
22 administered and dispensed by the dental hygienist or dental  
23 hygiene practitioner and the specific circumstances under which the  
24 medications may be administered and dispensed;

25 (11) describing any requirements for consultation  
26 with the dentist before providing care to patients with specific  
27 medical conditions or complex medical histories; and

1           (12) establishing a plan, which includes clinical  
2 resources and referrals, for situations in which a patient requires  
3 treatment that exceeds the capabilities or scope of practice of the  
4 dental hygienist or dental hygiene practitioner.

5           (e) A collaborative practice agreement may include  
6 provisions to allow the practice of dental hygiene or dental  
7 hygiene therapy without:

8                 (1) prior examination of the patient by a dentist; and

9                 (2) the presence of a supervising dentist.

10           (f) A collaborative practice agreement must be:

11                 (1) signed by the dentist, the dental hygienist or the  
12 dental hygiene practitioner, and, if applicable, a representative  
13 of the facility, program, or organization in which the practice of  
14 dental hygiene or dental hygiene therapy takes place;

15                 (2) reviewed annually by the dentist and the dental  
16 hygienist or the dental hygiene practitioner who are parties to the  
17 collaborative practice agreement; and

18                 (3) made available to the board and other interested  
19 parties on request.

20           (g) Not more than two collaborative practice agreements  
21 between a dentist and a dental hygienist or a dental hygiene  
22 practitioner may be in effect at a time.

23           (h) A dentist may have a collaborative practice agreement  
24 with not more than six dental hygienists or dental hygiene  
25 practitioners at the same time. The board may grant an exception to  
26 the requirements of this subsection for the practice of dental  
27 hygiene or dental hygiene therapy in a public health setting.

1       (i) Before providing any service authorized by a  
2 collaborative practice agreement, the dental hygienist or dental  
3 hygiene practitioner must provide the patient with a written  
4 statement advising the patient that the dental hygiene or dental  
5 hygiene therapy services performed are not a substitute for  
6 examination by a dentist.

7       (j) If a dental hygienist or dental hygiene practitioner  
8 operating under a collaborative practice agreement makes a referral  
9 for further dental procedures, the dental hygienist or dental  
10 hygiene practitioner must complete a referral form approved by the  
11 board and provide a copy of the form to the dentist who is a party to  
12 the collaborative practice agreement.

13       SECTION 13. Section 262.002, Occupations Code, is amended  
14 by amending Subsection (a) and adding Subsection (c) to read as  
15 follows:

16       (a) A person practices dental hygiene if the person:

17           (1) removes accumulated matter, tartar, deposits,  
18 accretions, or stains, other than mottled enamel stains, from the  
19 natural and restored surface of exposed human teeth and  
20 restorations in the human mouth;

21           (2) smoothes roughened root surfaces;

22           (3) polishes exposed human teeth, restorations in the  
23 human mouth, or roughened root surfaces;

24           (4) topically applies drugs to the surface tissues of  
25 the human mouth or the exposed surface of human teeth;

26           (5) makes dental x-rays; ~~and~~

27           (6) administers intraoral, block, or infiltration



1 anesthesia or inhalation sedations in the form of nitrous oxide  
2 under the authorization and supervision of a dentist; and

3 (7) performs any other service, task, or procedure  
4 prescribed by board rule.

5 (c) A dental hygienist may not establish an independent  
6 practice to provide services authorized by this subtitle.

7 SECTION 14. Section 262.151(a), Occupations Code, is  
8 amended to read as follows:

9 (a) A licensed dentist may delegate orally or in writing a  
10 service, task, or procedure to a dental hygienist who is under the  
11 supervision and responsibility of the dentist, if:

12 (1) the dental hygienist is licensed to perform the  
13 service, task, or procedure;

14 (2) ~~[the supervising dentist examines the patient:~~  
15 ~~[(A) at the time the service, task, or procedure~~  
16 ~~is performed by the dental hygienist; or~~

17 ~~[(B) during the 12 calendar months preceding the~~  
18 ~~date of performance of the service, task, or procedure by the dental~~  
19 ~~hygienist; and~~

20 ~~[(3)]~~ the dental hygienist does not:

21 (A) diagnose a dental disease or ailment;

22 (B) prescribe a treatment or a regimen;

23 (C) prescribe, order, or dispense medication; or

24 (D) perform any procedure that is irreversible or  
25 involves the intentional cutting of soft or hard tissue by any  
26 means; and

27 (3) the supervising dentist has determined that the

1 patient presents no evidence of tooth decay.

2 SECTION 15. Sections 262.1515(a) and (c), Occupations Code,  
3 are amended to read as follows:

4 (a) A licensed dentist may delegate a service, task, or  
5 procedure, pursuant to this section, to a dental hygienist[  
6 ~~without complying with Section 262.151(a)(2)~~] if:

7 (1) the dental hygienist has at least two years'  
8 experience in the practice of dental hygiene; and

9 (2) the service, task, or procedure is performed in  
10 one of the following locations:

11 (A) a nursing facility as defined in Section  
12 242.301, Health and Safety Code;

13 (B) a primary or secondary school [~~school-based~~  
14 ~~health center established under Subchapter B, Chapter 38, Education~~  
15 ~~Code~~]; [~~or~~]

16 (C) a community health center as defined by  
17 Section 136.002, Human Resources Code;

18 (D) a Head Start program facility;

19 (E) a hospital;

20 (F) a charitable clinic;

21 (G) a correctional facility;

22 (H) a state-operated facility;

23 (I) a military or veterans clinic;

24 (J) an adult day care facility licensed under  
25 Chapter 103, Human Resources Code;

26 (K) a clinic located on land recognized as tribal  
27 land by the federal government and maintained or operated by a

1 federally recognized Indian tribe or tribal organization as listed  
2 by the United States secretary of the interior under 25 U.S.C.  
3 Section 479a-1 or as listed under a successor federal statute or  
4 regulation; or

5 (L) the residence of a patient who is homebound  
6 or who is receiving or is eligible to receive:

7 (i) home and community-based waiver  
8 services under the Medicaid program;

9 (ii) hospice services; or

10 (iii) other home care services.

11 (c) A dental hygienist may ~~[only]~~ perform delegated tasks or  
12 procedures with respect to a patient for not more than 12 ~~[six]~~  
13 months unless:

14 (1) the patient has been examined by a dentist;

15 (2) a dentist has reviewed the patient's dental  
16 records and determined that the dental hygienist may continue to  
17 provide services to the patient; or

18 (3) a dentist has used telemedicine as defined by  
19 Section 262.154(a) to determine that the dental hygienist may  
20 continue to provide services to the patient ~~[in compliance with~~  
21 ~~Section 262.151(a)(2)]~~.

22 SECTION 16. Subchapter D, Chapter 262, Occupations Code, is  
23 amended by adding Section 262.154 to read as follows:

24 Sec. 262.154. TELEMEDICINE. (a) In this section,  
25 "telemedicine" means the use of technology that allows a health  
26 care service provider located at a site other than the site where  
27 the patient is located to deliver health care services and

1 information, either in real time or after a delay.

2 (b) To the extent otherwise provided by law, a dental  
3 hygienist may use telemedicine to practice dental hygiene in any  
4 setting authorized by law for the practice of dental hygiene.

5 SECTION 17. Subtitle D, Title 3, Occupations Code, is  
6 amended by adding Chapter 268 to read as follows:

7 CHAPTER 268. REGULATION OF DENTAL HYGIENE PRACTITIONERS

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 268.001. DEFINITIONS. In this chapter, "dental  
10 hygiene practitioner" means a person who practices dental hygiene  
11 therapy under a license issued by the board under Chapter 256.

12 Sec. 268.002. PRACTICE OF DENTAL HYGIENE THERAPY. (a) A  
13 person practices dental hygiene therapy if the person:

14 (1) provides:

15 (A) oral health and nutrition education; and

16 (B) assessment and treatment planning as  
17 authorized by a dentist;

18 (2) places sealant on exposed human teeth;

19 (3) places or removes:

20 (A) preformed or temporary crowns on exposed  
21 human teeth; and

22 (B) space maintainers in the human mouth;

23 (4) applies coronal polishing of exposed human teeth;

24 (5) performs:

25 (A) oral cancer screening;

26 (B) tooth decay risk assessment;

27 (C) provisional restorations of primary and

- 1 permanent teeth;  
2 (D) nonsurgical removal of primary teeth;  
3 (E) nonsurgical removal of periodontally  
4 diseased permanent teeth, if authorized in advance by the  
5 supervising dentist;  
6 (F) atraumatic restorative therapy; and  
7 (G) stabilization of reimplanted teeth;  
8 (6) makes and assesses dental radiographs;  
9 (7) administers and monitors inhalation sedations in  
10 the form of nitrous oxide;  
11 (8) administers intraoral, block, or infiltration  
12 anesthesia under the authorization and supervision of a dentist;  
13 (9) prescribes, dispenses, and administers, with the  
14 authorization of the supervising dentist, analgesics,  
15 anti-inflammatories, antibiotics, antimicrobials, and anticaries;  
16 (10) repairs defective prosthetic devices for the  
17 human mouth; and  
18 (11) performs other related services and functions  
19 authorized by the supervising dentist and for which the dental  
20 hygiene practitioner is trained.  
21 (b) A person legally practicing dental hygiene therapy does  
22 not violate state law regulating the practice of dentistry.  
23 (c) A dental hygiene practitioner may not establish an  
24 independent practice to provide services authorized by this  
25 subtitle.  
26 (d) A dental hygiene practitioner may supervise dental  
27 hygienists and dental assistants but may not supervise more than

1 two dental hygienists and three dental assistants in a practice  
2 setting.

3 Sec. 268.003. EXEMPTIONS. This chapter does not apply to:

4 (1) a dentist practicing dentistry in this state,  
5 except as provided by Subchapter C;

6 (2) a physician authorized to practice medicine in  
7 this state; or

8 (3) an employee of a dentist practicing dentistry in  
9 this state who makes dental x-rays in the office of and under the  
10 supervision of the dentist.

11 SUBCHAPTER B. POWERS AND DUTIES OF BOARD RELATING TO DENTAL HYGIENE

12 PRACTITIONERS

13 Sec. 268.051. BOARD POWERS AND DUTIES. The board shall:

14 (1) administer this chapter; and

15 (2) regulate all matters concerning dental hygiene  
16 practitioners and the practice of dental hygiene therapy.

17 Sec. 268.052. RULEMAKING AUTHORITY OF BOARD. (a) The board  
18 shall adopt and enforce rules that are necessary and advisable to  
19 carry out the purposes of and to enforce this chapter, including  
20 rules relating to professional conduct for dental hygiene  
21 practitioners.

22 (b) As necessary to protect public health and safety, the  
23 board may adopt and enforce a rule to establish the number of dental  
24 hygiene practitioners a dentist may employ.

25 SUBCHAPTER C. PRACTICE BY LICENSE HOLDER

26 Sec. 268.101. DELEGATION OF DUTIES BY DENTIST. (a) A  
27 dentist may delegate orally or in writing a service, task, or

1 procedure to a dental hygiene practitioner who is under the  
2 supervision and responsibility of the dentist, if:

3 (1) the dental hygiene practitioner is licensed to  
4 perform the service, task, or procedure; and

5 (2) the dental hygiene practitioner does not:

6 (A) diagnose a dental disease or ailment without  
7 consulting with the supervising dentist;

8 (B) prescribe a treatment or a regimen without  
9 consulting with the supervising dentist; or

10 (C) prescribe, order, or dispense medication,  
11 other than as authorized by the dentist.

12 (b) A dentist may delegate to a dental hygiene practitioner  
13 any act that a dentist may delegate to a dental hygienist or a  
14 dental assistant.

15 (c) A dentist is not required to be on the premises when the  
16 dental hygiene practitioner performs a delegated act.

17 (d) This chapter does not prevent a dentist from authorizing  
18 a dental hygiene practitioner employed by the dentist to:

19 (1) instruct and educate a patient in proper oral  
20 hygiene; or

21 (2) provide to a patient a medication ordered by the  
22 dentist.

23 Sec. 268.102. PERFORMANCE OF DELEGATED DUTIES. A dental  
24 hygiene practitioner shall practice dental hygiene therapy:

25 (1) in the dental office of a supervising dentist; or

26 (2) in an alternate setting, including a location  
27 described by Section 268.103(2).

1       Sec. 268.103. DELEGATION OF DUTIES TO DENTAL HYGIENE  
2 PRACTITIONER PRACTICING IN CERTAIN FACILITIES. A licensed dentist  
3 may delegate a service, task, or procedure, pursuant to this  
4 section, to a dental hygiene practitioner if:

5           (1) the dental hygiene practitioner has at least two  
6 years' experience in the practice of dental hygiene therapy; and

7           (2) the service, task, or procedure is performed in  
8 one of the following locations:

9                   (A) a nursing facility as defined in Section  
10 242.301, Health and Safety Code;

11                   (B) a primary or secondary school;

12                   (C) a community health center as defined by  
13 Section 136.002, Human Resources Code;

14                   (D) a Head Start program facility;

15                   (E) a hospital;

16                   (F) a charitable clinic;

17                   (G) a correctional facility;

18                   (H) a state-operated facility;

19                   (I) a military or veterans clinic;

20                   (J) an adult day care facility licensed under  
21 Chapter 103, Human Resources Code;

22                   (K) a clinic located on land recognized as tribal  
23 land by the federal government and maintained or operated by a  
24 federally recognized Indian tribe or tribal organization as listed  
25 by the United States secretary of the interior under 25 U.S.C.  
26 Section 479a-1 or as listed under a successor federal statute or  
27 regulation; or



1                   (L) the residence of a patient who is homebound  
2 or who is receiving or is eligible to receive:

3                   (i) home and community-based waiver  
4 services under the Medicaid program;

5                   (ii) hospice services; or

6                   (iii) other home care services.

7           Sec. 268.104. TELEMEDICINE. (a) In this section,  
8 "telemedicine" means the use of technology that allows a health  
9 care service provider located at a site other than the site where  
10 the patient is located to deliver health care services and  
11 information, either in real time or after a delay.

12           (b) To the extent otherwise provided by law, a dental  
13 hygiene practitioner may use telemedicine to practice dental  
14 hygiene therapy in any setting authorized by law for the practice of  
15 dental hygiene therapy.

16           SUBCHAPTER D. PROHIBITED PRACTICES; CIVIL LIABILITIES

17           Sec. 268.151. PROHIBITED PRACTICE. A dental hygiene  
18 practitioner may not practice or offer to practice dental hygiene  
19 therapy under a name other than the name appearing on the person's  
20 license.

21           Sec. 268.152. CIVIL LIABILITY. A dental hygiene  
22 practitioner who administers to a person cardiopulmonary  
23 resuscitation or other emergency care in an emergency situation is  
24 not liable to the person for damages unless the emergency care is  
25 performed in a wilfully or wantonly negligent manner.

26           SECTION 18. Section [32.024](#), Human Resources Code, is  
27 amended by adding Subsection (11) to read as follows:

1       (11) The department shall establish separate provider types  
2 for dental hygienists and dental hygiene practitioners for purposes  
3 of enrollment as providers of and reimbursement under the medical  
4 assistance program.

5       SECTION 19. Section 843.002(24), Insurance Code, is amended  
6 to read as follows:

7               (24) "Provider" means:

8                       (A) a person, other than a physician, who is  
9 licensed or otherwise authorized to provide a health care service  
10 in this state, including:

11                               (i) a chiropractor, registered nurse,  
12 pharmacist, optometrist, registered optician, ~~[or]~~ acupuncturist,  
13 dental hygienist, or dental hygiene practitioner; or

14                               (ii) a pharmacy, hospital, or other  
15 institution or organization;

16                       (B) a person who is wholly owned or controlled by  
17 a provider or by a group of providers who are licensed or otherwise  
18 authorized to provide the same health care service; or

19                       (C) a person who is wholly owned or controlled by  
20 one or more hospitals and physicians, including a  
21 physician-hospital organization.

22       SECTION 20. Section 1301.001(1-a), Insurance Code, is  
23 amended to read as follows:

24               (1-a) "Health care provider" means a practitioner,  
25 institutional provider, or other person or organization that  
26 furnishes health care services and that is licensed or otherwise  
27 authorized to practice in this state. ~~[The term includes a~~

1 ~~pharmacist and a pharmacy.]~~ The term does not include a physician.

2 The term includes:

3 (A) a pharmacist;

4 (B) a pharmacy;

5 (C) a dental hygienist; and

6 (D) a dental hygiene practitioner.

7 SECTION 21. Section 1451.101, Insurance Code, is amended by  
8 amending Subdivision (1) and adding Subdivisions (1-a) and (1-b) to  
9 read as follows:

10 (1) "Dental hygiene practitioner" has the meaning  
11 assigned by Section 256.081, Occupations Code.

12 (1-a) "Dental hygienist" has the meaning assigned by  
13 Section 256.051, Occupations Code.

14 (1-b) "Health insurance policy" means a policy,  
15 contract, or agreement described by Section 1451.102.

16 SECTION 22. Subchapter C, Chapter 1451, Insurance Code, is  
17 amended by adding Sections 1451.128 and 1451.129 to read as  
18 follows:

19 Sec. 1451.128. SELECTION OF DENTAL HYGIENIST. An insured  
20 may select a dental hygienist to provide the services scheduled in  
21 the health insurance policy that are within the scope of the dental  
22 hygienist's license.

23 Sec. 1451.129. SELECTION OF DENTAL HYGIENE PRACTITIONER.  
24 An insured may select a dental hygiene practitioner to provide the  
25 services scheduled in the health insurance policy that are within  
26 the scope of the dental hygiene practitioner's license.

27 SECTION 23. The State Board of Dental Examiners shall, not

1 later than June 30, 2016, adopt rules under Chapter 256,  
2 Occupations Code, as amended by this Act, and Chapter 268,  
3 Occupations Code, as added by this Act.

4 SECTION 24. As soon as practicable after the effective date  
5 of this Act, the Health and Human Services Commission shall  
6 establish and implement separate provider types for dental  
7 hygienists and dental hygiene practitioners as required by Section  
8 32.024(11), Human Resources Code, as added by this Act.

9 SECTION 25. If before implementing any provision of this  
10 Act a state agency determines that a waiver or authorization from a  
11 federal agency is necessary for implementation of that provision,  
12 the agency affected by the provision shall request the waiver or  
13 authorization and may delay implementing that provision until the  
14 waiver or authorization is granted.

15 SECTION 26. This Act takes effect immediately if it  
16 receives a vote of two-thirds of all the members elected to each  
17 house, as provided by Section 39, Article III, Texas Constitution.  
18 If this Act does not receive the vote necessary for immediate  
19 effect, this Act takes effect September 1, 2015.