

By: Rodríguez, Eltife

S.B. No. 787

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

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

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

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

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

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

(B) consists of a minimum of four semesters;

(C) has a curriculum that:

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

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

(iii) has been approved by the board; and

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

(6) have passed the examination required by Section 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

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

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

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

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

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

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

(1) has been licensed in good standing as a dentist, dental hygiene practitioner, or dental hygienist for at least two 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

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

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

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

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

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

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

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

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

(a) Each dentist, dental hygiene practitioner, dental

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

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

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

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

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

Sec. 257.004. CARDIOPULMONARY RESUSCITATION REQUIREMENTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(B) [a surgical or cutting procedure on hard or soft tissue];~~

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

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

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

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

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

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

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

(D) the placement of any final restoration

~~[(F)] direct pulp capping, pulpotomy, or any other endodontic procedure;~~

~~[(G) the final placement and intraoral 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) smooths 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

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

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

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

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

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

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

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

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

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

(A) diagnose a dental disease or ailment;

(B) prescribe a treatment or a regimen;

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

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

(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

information, either in real time or after a delay.

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

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

CHAPTER 268. REGULATION OF DENTAL HYGIENE PRACTITIONERS

SUBCHAPTER A. GENERAL PROVISIONS

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

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

(1) provides:

(A) oral health and nutrition education; and

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

(2) places sealant on exposed human teeth;

(3) places or removes:

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

(B) space maintainers in the human mouth;

(4) applies coronal polishing of exposed human teeth;

(5) performs:

(A) oral cancer screening;

(B) tooth decay risk assessment;

(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

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

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

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

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

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

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

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

(1) administer this chapter; and

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

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

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

SUBCHAPTER C. PRACTICE BY LICENSE HOLDER

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

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

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

(2) the dental hygiene practitioner does not:

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

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

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

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

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

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

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

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

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

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

(2) in an alternate setting, including a location 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, ~~[ex]~~ 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~~

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

The term includes:

(A) a pharmacist;

(B) a pharmacy;

(C) a dental hygienist; and

(D) a dental hygiene practitioner.

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

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

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

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

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

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

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

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.