

HOUSE No. 4454

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 3, 2018.

The committee on Public Health to whom were referred the petition (accompanied by bill, Senate, No. 142) of Michael O. Moore and Colleen M. Garry for legislation relative to graduate education for certain professionals, the petition (accompanied by bill, Senate, No. 1169) of Harriette L. Chandler, Leonard Mirra, Diana DiZoglio, Marjorie C. Decker and other members of the General Court for legislation to establish an advanced dental hygiene practitioner level of practice, the petition (accompanied by bill, House, No. 2474) of William Smitty Pignatelli, Kate Hogan and others for legislation to authorize dental therapists to expand patient access to oral health care, and the petition (accompanied by bill, House, No. 2820) of Peter V. Kocot and others relative to the certification of public health dental practitioners, reports recommending that the accompanying bill (House, No. 4454) ought to pass.

For the committee,

KATE HOGAN.

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The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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, as so appearing, is hereby amended by
2 adding after 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 so appearing , is hereby
11 amended by striking out, in line 80, the words "practical nurse or a licensed dental hygienist",
12 and inserting in place thereof the following words:- practical nurse, or a licensed dental therapist

13 under the supervision of a practitioner as defined in section 1 for the purposes of administering
14 analgesics, anti-inflammatories and antibiotics only, or a licensed dental hygienist.

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

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

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

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

25 SECTION 5. Subsection (a) of section 40 of chapter 111 of the General Laws, as
26 appearing in the 2016 Official Edition, is hereby amended by inserting after the word
27 “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 inserting
36 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 51B 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 registered by the board to practice dental
48 therapy under section 51B, and who has the appropriate training and works pursuant to a
49 collaborative 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 at the end the following definition:-

52 “Supervising dentist”, a dentist licensed in Massachusetts who is a MassHealth provider,
53 or who works for an entity that is a MassHealth provider, who maintains an active patient list and

54 routinely provides care, and who enters into a collaborative management agreement with a
55 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 is accredited by the Commission on Dental
62 Accreditation and provided by a post-secondary institution accredited by the New England
63 Association of Schools and Colleges, Inc.; (ii) passes a comprehensive, competency-based
64 clinical examination that is approved by the board and administered by a recognized national or
65 regional dental testing service that administers testing for dentists and other dental professionals
66 or equivalent examination administered by another entity approved by the board; and (iii)
67 obtains a policy of professional liability insurance and shows proof of such insurance as required
68 by rules and regulations shall, upon payment of a fee to be determined annually by the
69 commissioner of administration under the provision of section 3B of chapter 7, be registered as a
70 dental therapist and be given a certificate to practice in this capacity. A licensed dental therapist
71 shall have practiced under the direct supervision of a supervising dentist for a minimum of 2
72 years or 2,500 hours, whichever is longer, before practicing under general supervision pursuant
73 to a collaborative management agreement.

74 The following words shall have the following meanings wherever used in this chapter or
75 in any rules and regulations promulgated by the board or DPH in accordance with this act shall
76 supersede the parameters of “General Supervision” as defined in Section 43A.

77 For the purposes of this section, “general supervision” means supervision of procedures
78 and services based on a written collaborative management agreement between a licensed dentist
79 and a licensed dental therapist but not requiring a prior exam or diagnosis by a supervising
80 dentist or the physical presence of a supervising dentist during the performance of those
81 procedures and services unless required by the supervising dentist in the collaborative
82 management agreement.

83 (b) Any person who has met the requirements to be registered as a dental therapist under
84 any provision of this section may also be registered as a dental hygienist and be given a
85 certificate to practice in this capacity.

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

96 by the Commission on Dental Accreditation. All education programs must prepare students to
97 perform all procedures and services within the dental therapy scope of practice as set forth in this
98 section.

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

104 Not later than January 1, 2020, the board shall approve a comprehensive, competency-
105 based clinical dental therapy examination that includes assessment of technical competency in
106 performing the procedures and services within the scope of practice as set forth in this section, to
107 be administered by a recognized national or regional dental testing service that administers
108 testing for dentists and other dental professionals. The examination shall be comparable to the
109 examination given to applicants for a dental license but only for the limited scope of dental
110 services in the dental therapy scope of practice as set forth in this section.

111 (d) The board shall grant a dental therapy license by examination to an applicant, upon
112 payment of a fee as determined under subsection (a), provided the applicant is of good moral
113 character and has: (i) met the eligibility requirements as defined by the board; (ii) submitted
114 documentation to the board of a passing score on a comprehensive, competency-based clinical
115 examination or combination of examinations that includes both dental therapy and dental
116 hygiene components and are approved by the board and administered by a recognized national or
117 regional dental testing service that administers testing for dentists and other dental professionals;

118 and (iii) submitted to the board documentation of a passing score on the Massachusetts Dental
119 Ethics and Jurisprudence Examination or any other successor examination. An applicant failing
120 to pass the examination shall be entitled to re-examination pursuant to the rules and guidelines
121 established by the Commission on Dental Competency Assessments (formerly NERB), for which
122 the applicant shall pay a fee determined annually by the commissioner of administration under
123 the provision of section three B of chapter seven.

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

133 The board shall grant a license by credentials, without further professional examination,
134 to a dental therapist licensed in another jurisdiction, upon payment of a fee as determined under
135 subsection (a), provided the applicant is of good moral character and has: (i) met the eligibility
136 requirements as defined by the board; (ii) furnished the board with satisfactory proof of
137 graduation from an education program or combination of education programs providing both
138 dental therapy and dental hygiene education that meets the standards of the Commission on
139 Dental Accreditation, provided, however, that an applicant who graduated from dental therapy
140 education program established before the Commission on Dental Accreditation established a

141 dental therapy accreditation program is eligible notwithstanding the lack of accreditation of the
142 program at the time the education was received; (iii) submitted documentation of a passing score
143 on a dental therapy examination administered by another state or testing agency that is
144 substantially equivalent to the board-approved dental therapy examination for dental therapists as
145 defined in this section; (iv) submitted documentation of a passing score on the Massachusetts
146 Dental Ethics and Jurisprudence Examination or any other successor examination; and (v)
147 submitted documentation of completion of 2 years or 2,500 hours, whichever is longer, of
148 practice. If such practice requirement is not met, a dental therapist shall be required to complete
149 the remaining hours or years, whichever is longer, under direct supervision in the
150 Commonwealth prior to practicing under general supervision.

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

164 After entering into a collaborative management agreement with a supervising dentist,
165 dental therapists shall practice under direct supervision for not less than 2,500 clinical hours or
166 two years, whichever is longer. After completing 2,500 clinical hours or two years, whichever is
167 longer, of practice under direct supervision, dental therapists are authorized to perform all
168 procedures and services listed in the Commission on Dental Accreditation's dental therapy
169 standards and all procedures and services within the scope of a public health dental hygienist, as
170 set forth in regulations by the board, under general supervision if authorized by a supervising
171 dentist pursuant to a written collaborative agreement. In addition, the following procedures,
172 referred to in this section as advanced procedures, may be performed under direct supervision: (i)
173 preparation and placement of direct restoration in primary and permanent teeth; (ii) fabrication
174 and placement of single-tooth temporary crowns; (iii) preparation and placement of preformed
175 crowns on primary teeth; (iv) indirect and direct pulp capping on permanent teeth; (v) indirect
176 pulp capping on primary teeth; and (vi) simple extractions of erupted primary teeth, provided
177 however that the advanced procedures may be performed under general supervision if authorized
178 by the board pursuant to subsection (f) of this section.

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

186 without, a supervising dentist. A dental therapist is prohibited from practicing without entering
187 into a collaborative management agreement with a supervising dentist.

188 (f) By January 1, 2020, the Department of Public Health (the department), in consultation
189 with the Board of Registration in Dentistry (the board) and any other entity they deem
190 appropriate, shall begin an evaluation assessing the impact of dental therapists practicing under
191 general supervision in Massachusetts and the rest of the United States, specifically on: (i) dental
192 therapists' progress in expanding access to safe and effective dental services for vulnerable
193 populations including, at a minimum, Medicaid beneficiaries and individuals who are
194 underserved as defined in this section; (ii) an appropriate geographic distance limitation between
195 the dental therapist and supervising dentist that permits the dental therapist to expand access to
196 vulnerable populations including, at a minimum, Medicaid beneficiaries and individuals who are
197 underserved as defined in this section; and (iii) the number of dental hygienists and dental
198 assistants a dental therapist may oversee.

199 Not before January 1, 2021 and no later than December 1, 2022, the department in
200 consultation with the board and any other entity they deem appropriate, shall make a
201 recommendation, based on its assessment of whether dental therapists should be authorized to
202 perform one or more of the advanced procedures, as defined in subsection (e) under general
203 supervision pursuant to a collaborative management agreement. The department shall also make
204 a recommendation on an appropriate geographic distance limitation between the dental therapist
205 and supervising dentist that permits the dental therapist to expand access to vulnerable
206 populations including, at a minimum, MassHealth beneficiaries and individuals who are
207 underserved as defined in this section. After the department completes its assessment and
208 submits its recommendations to the board, the board shall make a determination, with

209 consideration to how authorizing general supervision will expand access to safe and effective
210 dental services for vulnerable populations including, at a minimum, MassHealth beneficiaries
211 and individuals who are underserved as defined in this section, whether to authorize performance
212 of one or more of the procedures as identified in subsection (e), under general supervision
213 pursuant to a collaborative management agreement.

214 Should the board, in consultation with the department and any other appropriate entity,
215 determine that dental therapists shall have the authority to perform one or more of the procedures
216 and services as identified in subsection (e) in their scope of practice under general supervision,
217 then the board shall establish regulations no later than six months following the recommendation,
218 authorizing dental therapists to perform one or more procedures as identified in subsection (e)
219 under general supervision pursuant to a collaborative management agreement after receiving
220 advanced practice certification.

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

227 Should the board determine that dental therapists shall continue to perform one or more
228 of the advanced procedures under direct supervision, the department, in consultation with the
229 board, shall re-evaluate annually the impact of dental therapists practicing under general
230 supervision in Massachusetts and the rest of the United States, and the board shall annually

231 reassess whether to authorize general supervision for the advanced procedures in order to
232 improve dental therapists' progress in expanding access to safe and effective dental services for
233 vulnerable populations including, at a minimum, MassHealth beneficiaries and individuals who
234 are underserved as defined in this section.

235 (g) The board shall establish appropriate guidelines for a written collaborative
236 management agreement. A collaborative management agreement shall be signed and maintained
237 by the supervising dentist and the dental therapist and shall be submitted annually to the board.
238 The agreement may be updated as necessary. The agreement shall serve as standing orders from
239 the supervising dentist and shall address: (i) practice settings; (ii) any limitation on services
240 established by the supervising dentist; (iii) the level of supervision required for various services
241 or treatment settings; (iv) patient populations that may be served; (v) practice protocols; (vi)
242 record keeping; (vii) managing medical emergencies; (viii) quality assurance; (ix) administering
243 and dispensing medications; (x) geographic distance limitations; (xi) oversight of dental
244 hygienists and dental assistants; and (xii) referrals for services outside of the dental therapy
245 scope of practice. The collaborative management agreement shall include specific protocols to
246 govern situations in which the dental therapist encounters a patient who requires treatment that
247 exceeds the authorized scope of practice of the dental therapist. The supervising dentist is
248 responsible for directly providing, or arranging for another dentist or specialist within an
249 accessible geographic distance to provide, any necessary additional services outside of the dental
250 therapy scope of practice needed by the patient. A supervising dentist may have a collaborative
251 management agreement with not more than 3 dental therapists at the same time. Not more than 2
252 of the dental therapists may practice under general supervision with certification to perform one
253 or more of the advanced procedures. A practice or organization with more than one practice

254 location listed under the same business name may not employ more than six dental therapists,
255 provided, however, that this requirement shall not apply if such an organization or practice is a
256 federally qualified health center or look-alike, a community health center, a non-profit practice
257 or organization, public health setting as defined by 234 CMR 2.03, or as otherwise permitted by
258 the board.

259 (h) No medical malpractice insurer shall refuse primary medical malpractice insurance
260 coverage to a licensed dentist on the basis of whether they entered into a collaborative
261 management agreement with a dental therapist or public health dental hygienist. A dental
262 therapist may not bill separately for services rendered; the services of the dental therapist are the
263 services of the supervising dentist and shall be billed as such.

264 (i) Not less than 50% of the patient panel of a dental therapist, as determined in each
265 calendar year, shall consist of patients who receive coverage through MassHealth or its
266 contracted health insurers, health plans, health maintenance organizations, behavioral health
267 management firms, and third-party administrators under contract to a MassHealth managed care
268 organization or primary care clinician plan; or are considered underserved provided, however,
269 that this requirement shall not apply if the dental therapist is operating in a federally qualified
270 health center or look-alike, community-health center, non-profit practice or organization, or other
271 public health setting as defined by 234 CMR 4.02, or as otherwise permitted by the board. As
272 used in this section, “underserved” means individuals who: (i) receive, or are eligible to receive,
273 benefits through MassHealth or its contracted health insurers, health plans, health maintenance
274 organizations, behavioral health management firms, and third-party administrators under contract
275 to a MassHealth managed care organization or primary care clinician plan; (ii) receive, or are
276 eligible to receive, Social Security Disability Benefits (SSDI), Supplemental Security Income

277 (SSI), and/or Massachusetts State Supplement Program (SSP); (iii) live in a dental health
278 professional shortage area (DPSA) as designated by the U.S. Department of Health and Human
279 Services; (iv) reside in a nursing home, skilled nursing facility, veterans home, or long-term care
280 facility; (v) receive dental services at a public health setting as defined by 234 CMR 4.02; (vi)
281 receive benefits, or are eligible to receive benefits, through ConnectorCare Plans; (viii) receive
282 benefits, or are eligible to receive benefits, through the Indian Health Service, tribal or urban
283 Indian organizations, or through the Contract Health Service Program; (ix) receive benefits, or
284 are eligible to receive benefits, through the Department of Veterans Affairs or other organization
285 serving veterans; (x) are elderly and have trouble accessing dental care due to mobility or
286 transportation challenges; (xi) meet the Commission on Dental Accreditation's definition of
287 people with special needs; (xii) are uninsured and living at 305% of the Federal Poverty Level;
288 or (xiii) as otherwise permitted by the board.

289 An employer of a dental therapist shall submit quarterly reports to the board that provide
290 information concerning the makeup of the dental therapist's patient panel, including the
291 percentage of underserved in the patient panel. No later than January 1, 2020, the secretary of
292 health and human services may establish by regulation penalties for employers who fail to meet
293 the requirements pertaining to the percentage of underserved in the dental therapist's patient
294 panel.

295 (j) Not later than January 1, 2020, the board, in consultation with the department shall
296 establish regulations to implement the provisions of this section for the practice of dental therapy
297 including

298 SECTION 11. Section 259 of chapter 112 of the General Laws, as appearing in the 2016
299 Official Edition, is hereby amended by inserting in after the word “skills”, in line 51, the
300 following:

301 (j) Oral health education;

302 SECTION 12. Section 260 of chapter 112 of the General Laws, as appearing in the 2016
303 Official Edition, is hereby amended by inserting after the number 7, in line 21, the following:—

304 As a condition for licensure or renewal of licensure, the board shall require community
305 health workers to receive education or training in oral health.

306 SECTION 13. Section 79L of chapter 233, as appearing in the 2016 Official Edition, is
307 hereby amended by inserting after the word “dentist,” the following words:— dental therapist.

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

316 (i) Number of dental therapists in the commonwealth each year;

317 (ii) Number of licensed dental therapists in the commonwealth each year;

318 (iii) Number of new and total patients served each year;

- 319 (iv) Impact on wait times for needed services;
- 320 (v) Impact on travel time for patients;
- 321 (vi) Impact on emergency room usage for dental care; and
- 322 (vii) Costs to the public health care system.

323 The report shall be submitted not later than five years after the date of graduation of the
324 first graduating class of dental therapists educated in the commonwealth to the joint committee
325 on public health, the joint committee on health care financing and the senate and house
326 committees on ways and means.

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

- 329 (i) Number of dental therapists in the commonwealth;
- 330 (ii) Number of licensed dental therapists practicing in the commonwealth;
- 331 (iii) Number of new and total patients served;
- 332 (iv) Number of new and total pediatric patients served, including geographic location
333 and insurance type;
- 334 (v) Practice settings; and
- 335 (vi) Commonly performed procedures and services

336 The first annual report shall be submitted not later than three years after the date of
337 graduation of the first graduating class of dental therapists educated in the commonwealth to the

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

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