SENATE DOCKET, NO. 747 FILED ON: 1/18/2023

SENATE . . . . . No. 1379

The Commonwealth of Massachusetts

PRESENTED BY:

Adam Gomez

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to improve oral health for all Massachusetts residents.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Adam Gomez	*Hampden*	
Jason M. Lewis	*Fifth Middlesex*	*1/18/2023*
Sal N. DiDomenico	*Middlesex and Suffolk*	*2/23/2023*
James B. Eldridge	*Middlesex and Worcester*	*3/6/2023*
John J. Cronin	*Worcester and Middlesex*	*3/15/2023*
Bruce E. Tarr	*First Essex and Middlesex*	*7/26/2023*

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SENATE . . . . . No. 1379

By Mr. Gomez, a petition (accompanied by bill, Senate, No. 1379) of Adam Gomez, Jason M. Lewis, Sal N. DiDomenico and James B. Eldridge for legislation to improve oral health for all Massachusetts residents. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *743* OF 2021-2022.]

The Commonwealth of Massachusetts

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

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:

SECTION 1. Chapter 71 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after Section 34H the following new section:-

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

SECTION 2. Section 7 of chapter 94C of the General Laws, as so appearing, is hereby amended by striking out, in lines 80 and 81, the words "practical nurse or a licensed dental hygienist", and inserting in place thereof the following words:- practical nurse, or a licensed dental therapist under the supervision of a practitioner as defined in section 1 for the purposes of administering analgesics, anti-inflammatories and antibiotics only, or a licensed dental hygienist.

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

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

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

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

SECTION 5. Subsection (a) of section 4O of chapter 111 of the General Laws, as so appearing, is hereby amended by inserting after the word "disparities", in line 9, the following:-

The dental director shall be responsible for recruiting, monitoring progress of, and supporting dental health providers. The dental director shall aim to increase the delivery of preventative dental services to underserved and vulnerable populations, including but not limited

to, those residing in dental health provider shortage communities and pediatric and geriatric patients.

SECTION 6. Said section 4O of said chapter 111 is hereby further amended by inserting after the word "to", in line 32, the following word:- “annual”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Commission on Dental Competency Assessments, for which the applicant shall pay a fee as determined annually by the secretary of administration and finance under section 3B of chapter 7.

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

The board shall grant a license by credentials, without further professional examination, to a dental therapist licensed in another jurisdiction, upon payment of a fee as determined annually by the secretary of administration and finance under section 3B of chapter 7, provided the applicant is of good moral character and has: (i) met the eligibility requirements as defined by the board; (ii) furnished the board with satisfactory proof of graduation from an education program, or combination of education programs, providing both dental therapy and dental hygiene education that meets the standards of the Commission on Dental Accreditation, provided, however, that an applicant who graduated from a dental therapy education program established before the Commission on Dental Accreditation established a dental therapy accreditation program is eligible notwithstanding the lack of accreditation of the program at the time the education was received; (iii) submitted documentation of a passing score on a dental

therapy examination administered by another state or testing agency that is substantially equivalent to the board-approved dental therapy examination for dental therapists as defined in this section; (iv) submitted documentation of a passing score on the Massachusetts Dental Ethics and Jurisprudence Examination or any other successor examination; and (v) submitted documentation of completion of 2 years or 2,500 hours, whichever is longer, of practice. If such practice requirement is not met, a dental therapist shall be required to complete the remaining hours or years, whichever is longer, under direct supervision in the Commonwealth prior to practicing under general supervision.

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

After entering into a collaborative management agreement with a supervising dentist, dental therapists shall practice under direct supervision for not less than 2,500 clinical hours or

two years, whichever is longer. After completing 2,500 clinical hours or two years, whichever is longer, of practice under direct supervision, dental therapists are authorized to perform all procedures and services listed in the Commission on Dental Accreditation's dental therapy standards and all procedures and services within the scope of a public health dental hygienist, as set forth in regulations by the board, under general supervision if authorized by a supervising dentist pursuant to a written collaborative agreement. In addition, the following procedures, referred to in this section as advanced procedures, may be performed under direct supervision: (i) preparation and placement of direct restoration in primary and permanent teeth; (ii) fabrication and placement of single-tooth temporary crowns; (iii) preparation and placement of preformed crowns on primary teeth; (iv) indirect and direct pulp capping on permanent teeth; (v) indirect pulp capping on primary teeth; and (vi) simple extractions of erupted primary teeth, provided however that the advanced procedures may be performed under general supervision if authorized by the board pursuant to subsection (f) of this section.

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

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

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

Not before January 1, 2021 and no later than December 1, 2022, the department of public health, in consultation with the board and any other entity they deem appropriate, shall make a recommendation, based on its assessment of whether dental therapists should be authorized to perform one or more of the advanced procedures, as defined in subsection (e) under general supervision pursuant to a collaborative management agreement. The department shall also make a recommendation on an appropriate geographic distance limitation between the dental therapist and supervising dentist that permits the dental therapist to expand access to vulnerable populations including, at a minimum, individuals receiving benefits through the division of medical assistance and individuals who are underserved as defined in this section. After the department completes its assessment and submits its recommendations to the board, the board shall make a determination, with consideration to how authorizing general supervision will expand access to safe and effective dental services for vulnerable populations including, at a minimum, individuals receiving benefits through the division of medical assistance and

individuals who are underserved as defined in this section, whether to authorize performance of one or more of the procedures as identified in subsection (e), under general supervision pursuant to a collaborative management agreement.

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

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

Should the board determine that dental therapists shall continue to perform one or more of the advanced procedures under direct supervision, the department, in consultation with the board, shall re-evaluate annually the impact of dental therapists practicing under general supervision in Massachusetts and the rest of the United States, and the board shall annually reassess whether to authorize general supervision for the advanced procedures in order to improve dental therapists' progress in expanding access to safe and effective dental services for

vulnerable populations including, at a minimum, individuals receiving benefits through the division of medical assistance and individuals who are underserved as defined in this section.

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

The agreement may be updated as necessary. The agreement shall serve as standing orders from the supervising dentist and shall address: (i) practice settings; (ii) any limitation on services established by the supervising dentist; (iii) the level of supervision required for various services or treatment settings; (iv) patient populations that may be served; (v) practice protocols; (vi) record keeping; (vii) managing medical emergencies; (viii) quality assurance; (ix) administering and dispensing medications; (x) geographic distance limitations; (xi) oversight of dental hygienists and dental assistants; and (xii) referrals for services outside of the dental therapy scope of practice. The collaborative management agreement shall include specific protocols to govern situations in which the dental therapist encounters a patient who requires treatment that exceeds the authorized scope of practice of the dental therapist. The supervising dentist is responsible for directly providing, or arranging for another dentist or specialist within an accessible geographic distance to provide, any necessary additional services outside of the dental therapy scope of practice needed by the patient. A supervising dentist may have a collaborative management agreement with not more than 3 dental therapists at the same time. Not more than 2 of the dental therapists may practice under general supervision with certification to perform one or more of the advanced procedures. A practice or organization with more than one practice location listed under the same business name may not employ more than six dental therapists, provided, however, that this requirement shall not apply if such an organization or

practice is a federally qualified health center or look-alike, a community health center, a non-profit practice or organization, public health setting as defined by 234 CMR 2.02, or as otherwise permitted by the board.

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

(i) Not less than 50% of the patient panel of a dental therapist, as determined in each calendar year, shall consist of patients who receive coverage through the division of medical assistanceor are considered underserved provided, however, that this requirement shall not apply if the dental therapist is operating in a federally qualified health center or look-alike, community-health center, non-profit practice or organization, or other public health setting as defined by 234 CMR 2.02, or as otherwise permitted by the board. As used in this section, "underserved" means individuals who: (i) receive, or are eligible to receive, benefits through the division of medical assistance; (ii) receive, or are eligible to receive, social security disability benefits, supplemental security income, and/or Massachusetts state supplement program; (iii) live in a dental health professional shortage area as designated by the federal department of health and human services; (iv) reside in a long-term care facility licensed under section 71 of chapter 111; (v) receive dental services at a public health setting as defined by 234 CMR 2.02; (vi) receive benefits, or are eligible to receive subsidized insurance through the commonwealth health insurance connector authority;; (viii) receive benefits, or are eligible to receive benefits, through the Indian Health Service, tribal or urban Indian organizations, or through the contract health service program; (ix)

receive benefits, or are eligible to receive benefits, through the federal department of veterans affairs or other organization serving veterans; (x) are elderly and have trouble accessing dental care due to mobility or transportation challenges; (xi) meet the Commission on Dental Accreditation's definition of people with special needs; (xii) are uninsured have an annual income at or below 305% of the federal poverty level; or (xiii) as otherwise permitted by the board.

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

(j) Not later than January 1, 2020, the board, in consultation with the department shall establish regulations to implement the provisions of this section for the practice of dental therapy to protect the public health, safety and welfare, including, but not limited to: requirements for approval of educational programs; guidelines for collaborative management agreements, continuing education requirements, license renewal, standards of conduct, and the investigation of complaints, conduct of disciplinary proceedings and grounds for discipline.

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

(j) Oral health education;

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

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

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

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

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

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

(iv) Impact on wait times for needed services;

(v) Impact on travel time for patients;

(vi) Impact on emergency room usage for dental care; and

(vii) Costs to the public health care system.

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

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

(i) Number of dental therapists in the commonwealth;

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

(iii) Number of new and total patients served;

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

(v) Practice settings; and

(vi) Commonly performed procedures and services

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