

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Smitty Pignatelli

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:	DATE ADDED:
<i>Smitty Pignatelli</i>	<i>3rd Berkshire</i>	<i>1/9/2023</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>1/19/2023</i>
<i>John Barrett, III</i>	<i>1st Berkshire</i>	<i>1/20/2023</i>

HOUSE No.

[Pin Slip]

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:

1 SECTION 1. Chapter 71 of the General Laws, as appearing in the 2020 Official Edition,
2 is hereby amended by inserting 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 appearing in the 2020
11 Official Edition, is hereby amended by striking out, in lines 80 and 81, the words "practical nurse
12 or a licensed dental hygienist", and inserting in place thereof the following words:- practical
13 nurse, or a licensed dental therapist under the supervision of a practitioner as defined in section 1

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

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

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

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

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

26 SECTION 5. Subsection (a) of section 40 of chapter 111 of the General Laws, as
27 appearing in the 2020 Official Edition, is hereby amended by inserting after the word
28 "disparities", in line 9, the following:-

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

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

36 SECTION 7. Section 43A of chapter 112, as appearing in the 2020 Official Edition, is
37 hereby amended by inserting after the definition of "Appropriate supervision" the following 2
38 definitions:-

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

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

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

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

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

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

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

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

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

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

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

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

102 Not later than January 1, 2023, the board shall approve a comprehensive, competency-
103 based clinical dental therapy examination that includes an assessment of technical competency in
104 performing the procedures and services within the scope of practice as set forth in this section, to
105 be administered by a recognized national or regional dental testing service that administers
106 testing for dentists and other dental professionals. The examination shall be comparable to the
107 examination given to applicants for a dental license but only for the limited scope of dental
108 services in the dental therapy scope of practice as set forth in this section.

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

120 Commission on Dental Competency Assessments, for which the applicant shall pay a fee as
121 determined annually by the secretary of administration and finance under section 3B of chapter
122 7.

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

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

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

151 (e) Pursuant to a collaborative management agreement, a dental therapist licensed by the
152 board may perform: (i) all acts of a public health dental hygienist as set forth in regulations of the
153 board and (ii) all acts in the Commission on Dental Accreditation's dental therapy standards.
154 Dental therapists shall have the authority to perform an oral evaluation and assessment of dental
155 disease and formulate an individualized treatment plan as authorized by the supervising dentist in
156 the collaborative management agreement. A dental therapist may dispense and administer the
157 following medications within the parameters of the collaborative management agreement and
158 with the authorization of the supervising dentist: non-narcotic analgesics, anti-inflammatories
159 and antibiotics. The authority to dispense and administer shall extend only to the categories of
160 drugs identified in this paragraph and may be further limited by the collaborative management
161 agreement. A dental therapist is prohibited from dispensing or administering narcotic analgesics.
162 A dental therapist may oversee not more than 2 dental hygienists and 2 dental assistants, but
163 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
186 patients without, a supervising dentist. A dental therapist is prohibited from practicing without
187 entering into a collaborative management agreement with a supervising dentist.

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

198 Not before January 1, 2023 and no later than December 1, 2024, the department of public
199 health, in consultation with the board and any other entity they deem appropriate, shall make a
200 recommendation, based on its assessment of whether dental therapists should be authorized to
201 perform one or more of the advanced procedures, as defined in subsection (e) under general
202 supervision pursuant to a collaborative management agreement. The department shall also make
203 a recommendation on an appropriate geographic distance limitation between the dental therapist
204 and supervising dentist that permits the dental therapist to expand access to vulnerable
205 populations including, at a minimum, individuals receiving benefits through the division of
206 medical assistance and individuals who are underserved as defined in this section. After the
207 department completes its assessment and submits its recommendations to the board, the board
208 shall make a determination, with consideration to how authorizing general supervision will
209 expand access to safe and effective dental services for vulnerable populations including, at a
210 minimum, individuals receiving benefits through the division of medical assistance and

211 individuals who are underserved as defined in this section, whether to authorize the 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 by the
222 board to perform all services under general supervision pursuant to a collaborative management
223 agreement if the dental therapist provides documentation of completion of at least two years or
224 2,500 hours, whichever is longer, of direct supervision pursuant to subsection (a) of this section,
225 and satisfying any other criteria established by regulation adopted by the board as authorized in
226 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, individuals receiving benefits through the
234 division of medical assistance and individuals who 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
239 orders from the supervising dentist and shall address: (i) practice settings; (ii) any limitation on
240 services established by the supervising dentist; (iii) the level of supervision required for various
241 services or treatment settings; (iv) patient populations that may be served; (v) practice protocols;
242 (vi) record keeping; (vii) managing medical emergencies; (viii) quality assurance; (ix)
243 administering and dispensing medications; (x) geographic distance limitations; (xi) oversight of
244 dental hygienists and dental assistants; and (xii) referrals for services outside of the dental
245 therapy scope of practice. The collaborative management agreement shall include specific
246 protocols to govern situations in which the dental therapist encounters a patient who requires
247 treatment that exceeds the authorized scope of practice of the dental therapist. The supervising
248 dentist is responsible for directly providing, or arranging for another dentist or specialist within
249 an accessible geographic distance to provide, any necessary additional services outside of the
250 dental therapy scope of practice needed by the patient. A supervising dentist may have a
251 collaborative management agreement with not more than 3 dental therapists at the same time.
252 Not more than 2 dental therapists may practice under general supervision with certification to
253 perform one or more of the advanced procedures. A practice or organization with more than one
254 practice location listed under the same business name may not employ more than six dental
255 therapists, provided, however, that this requirement shall not apply if such an organization or

256 practice is a federally qualified health center or look-alike, a community health center, a non-
257 profit practice or organization, public health setting as defined by 234 CMR 2.02, or as otherwise
258 permitted by 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 the division of medical
266 assistance or are considered underserved provided, however, that this requirement shall not apply
267 if the dental therapist is operating in a federally qualified health center or look-alike, community-
268 health center, non-profit practice or organization, or other public health settings as defined by
269 234 CMR 2.02, or as otherwise permitted by the board. As used in this section, "underserved"
270 means individuals who: (i) receive, or are eligible to receive, benefits through the division of
271 medical assistance; (ii) receive, or are eligible to receive, social security disability benefits,
272 supplemental security income, and/or Massachusetts state supplement program; (iii) live in a
273 dental health professional shortage area as designated by the federal department of health and
274 human services; (iv) reside in a long-term care facility licensed under section 71 of chapter 111;
275 (v) receive dental services at a public health setting as defined by 234 CMR 2.02; (vi) receive
276 benefits, or are eligible to receive subsidized insurance through the commonwealth health
277 insurance connector authority;; (viii) receive benefits, or are eligible to receive benefits, through
278 the Indian Health Service, tribal or urban Indian organizations, or through the contract health

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

285 An employer of a dental therapist shall submit quarterly reports to the board that provide
286 information concerning the makeup of the dental therapist's patient panel, including the
287 percentage of underserved in the patient panel. No later than January 1, 2023, the secretary of
288 health and human services may establish by regulation penalties for employers who fail to meet
289 the requirements pertaining to the percentage of underserved in the dental therapist's patient
290 panel.

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

297 SECTION 11. Section 259 of chapter 112 of the General Laws, as appearing in the 2020
298 Official Edition, is hereby amended by inserting after the word "skills", in line 51, the following:

299 (j) Oral health education;

300 SECTION 12. Section 260 of chapter 112 of the General Laws, as appearing in the 2020
301 Official Edition, is hereby amended by inserting after the number 7, in line 21, the following:-
302 As a condition for licensure or renewal of licensure, the board shall require community health
303 workers to receive education or training in oral health.

304 SECTION 13. Section 79L of chapter 233, as appearing in the 2020 Official Edition, is
305 hereby amended by inserting after the word "dentist," the following words:- dental therapist.

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

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

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

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

317 (iv) Impact on wait times for needed services;

318 (v) Impact on travel time for patients;

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

320 (vii) Costs to the public health care system.

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

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

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

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

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

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

332 (v) Practice settings; and

333 (vi) Commonly performed procedures and services

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