

A bill for an act

relating to health occupations; establishing an advanced dental hygiene practitioner level of practice; amending Minnesota Statutes 2006, sections 150A.01, by adding a subdivision; 150A.05, subdivisions 1, 2, by adding a subdivision; 150A.10, subdivisions 1, 1a, 2, 4, by adding a subdivision; 151.01, subdivision 23; Minnesota Statutes 2007 Supplement, section 151.37, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 150A.

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

Section 1. Minnesota Statutes 2006, section 150A.01, is amended by adding a subdivision to read:

Subd. 4a. Advanced dental hygiene practitioner. "Advanced dental hygiene practitioner" means a licensed dental hygienist who meets the requirements described under section 150A.061 and is authorized to perform the services under section 150A.10, subdivisions 1, 1a, 1b, and 4, or any other services authorized under this chapter.

Sec. 2. Minnesota Statutes 2006, section 150A.05, subdivision 1, is amended to read:

Subdivision 1. **Practice of dentistry.** (a) A person shall be deemed to be practicing dentistry within the meaning of sections 150A.01 to 150A.12:

(1) who uses a dental degree, or designation, or card, device, directory, sign, or other media whereby the person represents an ability to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaw, or adjacent or associated structures;

(2) who is a manager, proprietor, operator or conductor of a place where dental operations are performed;

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(3) who performs dental operations of any kind gratuitously, or for a fee, gift, compensation or reward, paid or to be paid, to any person or agency;

(4) who uses a roentgen or X-ray machine for dental treatment, roentgenograms or for dental diagnostic purposes;

(5) who extracts a human tooth or teeth, or corrects or attempts to correct malpositions of the human teeth or jaws;

(6) who offers and undertakes, by any means or method, to diagnose, treat or remove stains or accretions from human teeth or jaws;

(7) who takes impressions of the human tooth, teeth, or jaws or performs any phase of any operation incident to the replacement of a part of a tooth, a tooth, teeth or associated tissues by means of a filling, a crown, a bridge, a denture or other appliance;

(8) who furnishes, supplies, constructs, reproduces, repairs, or offers to furnish, supply, construct, reproduce or repair prosthetic dentures or plates, bridges or other substitutes for natural teeth, to the user or prospective user thereof; or

(9) who performs any clinical operation included in the curricula of recognized dental schools and colleges.

(b) An advanced dental hygiene practitioner shall not be deemed as practicing dentistry to the extent the services provided are authorized by this chapter or the Board of Dentistry.

Sec. 3. Minnesota Statutes 2006, section 150A.05, is amended by adding a subdivision to read:

Subd. 1b. **Practice of advanced dental hygiene.** A person shall be deemed to be practicing advanced dental hygiene within the meaning of this chapter:

(1) who works under the collaborative management of a licensed dentist authorized under this chapter;

(2) who formulates individualized care plans based on evidence-based standards of care and practice guidelines in collaboration with the patient;

(3) who provides primary oral health care services including diagnostic, educational, prescriptive, palliative, therapeutic, and restorative services as authorized under section 150A.10, subdivision 1b; and

(4) who works cooperatively as part of an oral health care team as well as with other health care professionals to provide the most effective evidence-based dental care.

Sec. 4. Minnesota Statutes 2006, section 150A.05, subdivision 2, is amended to read:

Subd. 2. **Exemptions and exceptions of certain practices and operations.**

Sections 150A.01 to 150A.12 do not apply to:

(1) the practice of dentistry or dental hygiene in any branch of the armed services of the United States, the United States Public Health Service, or the United States Veterans Administration;

(2) the practice of dentistry, dental hygiene, or dental assisting by undergraduate or graduate dental students, dental hygiene students, and dental assisting students of the University of Minnesota, schools of dental hygiene, or schools of dental assisting approved by the board, when acting under the direction and supervision of a licensed dentist or a licensed dental hygienist acting as an instructor;

(3) the practice of dentistry by licensed dentists of other states or countries while appearing as clinicians under the auspices of a duly approved dental school or college, or a reputable dental society, or a reputable dental study club composed of dentists;

(4) the actions of persons while they are taking examinations for licensure or registration administered or approved by the board pursuant to sections 150A.03, subdivision 1, and 150A.06, subdivisions 1, 2, and 2a;

(5) the practice of dentistry by dentists and dental hygienists licensed by other states during their functioning as examiners responsible for conducting licensure or registration examinations administered by regional and national testing agencies with whom the board is authorized to affiliate and participate under section 150A.03, subdivision 1, and the practice of dentistry by the regional and national testing agencies during their administering examinations pursuant to section 150A.03, subdivision 1;

(6) the use of X-rays or other diagnostic imaging modalities for making radiographs or other similar records in a hospital under the supervision of a physician or dentist or by a person who is credentialed to use diagnostic imaging modalities or X-ray machines for dental treatment, roentgenograms, or dental diagnostic purposes by a credentialing agency other than the Board of Dentistry; or

(7) the service, other than service performed directly upon the person of a patient, of constructing, altering, repairing, or duplicating any denture, partial denture, crown, bridge, splint, orthodontic, prosthetic, or other dental appliance, when performed according to a written work order from a licensed dentist in accordance with section 150A.10, subdivision 3.

Sec. 5. [150A.061] ADVANCED DENTAL HYGIENE PRACTITIONER.

Subdivision 1. **Requirements.** Any dental hygienist licensed under this chapter may practice as an advanced dental hygiene practitioner upon the following:

(1) successful completion of a master's degree program in advanced dental hygiene practice from an institution accredited by an agency recognized by the United States Department of Education to offer graduate-level programs. The advanced dental hygiene practitioner program curriculum must include competencies defined and approved by the American Dental Hygienists Association and must provide, at a minimum:

(i) management of oral health care delivery;

(ii) provision of primary oral health care, including health assessment and oral diagnostic reasoning;

(iii) promotion of health care policy and consumer advocacy;

(iv) use of scientific methods and evidence-based information; and

(v) management of urgent care and emergencies;

(2) passes a comprehensive competency-based clinical examination developed in consultation with the board. This examination may be part of the master's degree program graduation requirements;

(3) meets the requirements described in section 150A.10, subdivision 1a, paragraph (a), clauses (1), (3), and (4);

(4) enters into a collaborative management agreement with a licensed dentist that meets the requirements described in subdivision 2; and

(5) provides the board with evidence of completing clauses (1), (2), and (3).

Subd. 2. Collaborative management agreement. (a) Prior to performing the services authorized under this chapter or by the board, an advanced dental hygiene practitioner shall enter into a collaborative management agreement with a licensed dentist. The agreement must include:

(1) age- and procedure-specific practice protocols;

(2) a procedure for creating and maintaining dental records for the patients that are treated by the advanced dental hygiene practitioner;

(3) a description of the parameters of the management relationship between the licensed dentist and advanced dental hygiene practitioner that includes patient review, referral follow-up, and a quality assurance system;

(4) specific protocols for prescribing, administering, and dispensing medications, including the conditions and circumstances under which medications are to be prescribed, dispensed, and administered; and

(5) an emergency plan. The plan must describe guidelines and the conditions under which the following must occur:

(i) consultation with a licensed dentist;

(ii) the transfer of care to a licensed dentist; and

(iii) the implementation of emergency care.

(b) The collaborative management agreement must be signed and maintained by the licensed dentist and the advanced dental hygiene practitioner and must be available to the board upon request.

(c) Agreements must be reviewed and updated on an annual basis.

Subd. 3. **Delegation authority.** The collaborating dentist shall delegate to an advanced dental hygiene practitioner the authority to prescribe, dispense, and administer medications for anti-infective therapies, nonnarcotic pain management, and prevention. This authority to prescribe, dispense, and administer extends only to the categories of drugs described in the written agreement developed under this section. The authority to dispense includes the authority to receive and dispense sample drugs.

Sec. 6. Minnesota Statutes 2006, section 150A.10, subdivision 1, is amended to read:

Subdivision 1. **Dental hygienists.** Any licensed dentist, public institution, or school authority may obtain services from a licensed dental hygienist. ~~Such licensed dental hygienist who~~ may provide those services defined in section 150A.05, subdivision 1a. Such services shall not include the establishment of a final diagnosis or treatment plan for a dental patient. ~~Such services and~~ shall be provided under supervision of a licensed dentist, unless the dental hygienist is practicing as an advanced dental hygiene practitioner. Any licensed dentist who shall permit any dental service by a dental hygienist other than those authorized under this chapter or authorized by the Board of Dentistry, shall be deemed to be violating the provisions of sections 150A.01 to 150A.12, and any ~~such~~ unauthorized dental service by a dental hygienist that exceeds the authority granted under this chapter or the board shall constitute a violation of sections 150A.01 to 150A.12.

Sec. 7. Minnesota Statutes 2006, section 150A.10, subdivision 1a, is amended to read:

Subd. 1a. **Limited authorization for dental hygienists.** (a) Notwithstanding subdivision 1, a dental hygienist licensed under this chapter may be employed or retained by a health care facility, program, or nonprofit organization to perform dental hygiene services described under paragraph (b) without the patient first being examined by a licensed dentist if the dental hygienist:

(1) has been engaged in the active practice of clinical dental hygiene for not less than 2,400 hours in the past 18 months or a career total of 3,000 hours, including a minimum of 200 hours of clinical practice in two of the past three years;

(2) has entered into a collaborative agreement with a licensed dentist that designates authorization for the services provided by the dental hygienist;

(3) has documented participation in courses in infection control and medical emergencies within each continuing education cycle; and

(4) maintains current certification in advanced or basic cardiac life support as recognized by the American Heart Association, the American Red Cross, or another agency that is equivalent to the American Heart Association or the American Red Cross.

(b) The dental hygiene services authorized to be performed by a dental hygienist under this subdivision are limited to:

(1) oral health promotion and disease prevention education;

(2) removal of deposits and stains from the surfaces of the teeth;

(3) application of topical preventive or prophylactic agents, including fluoride varnishes and pit and fissure sealants;

(4) polishing and smoothing restorations;

(5) removal of marginal overhangs;

(6) performance of preliminary charting;

(7) taking of radiographs; and

(8) performance of scaling and root planing.

The dental hygienist may administer injections of local anesthetic agents or nitrous oxide inhalation analgesia as specifically delegated in the collaborative agreement with a licensed dentist. The dentist need not first examine the patient or be present. If the patient is considered medically compromised, the collaborative dentist shall review the patient record, including the medical history, prior to the provision of these services. Collaborating dental hygienists who are authorized to perform services under this subdivision may work with unregistered and registered dental assistants who may only perform duties for which registration is not required. The performance of dental hygiene services in a health care facility, program, or nonprofit organization as authorized under this subdivision is limited to patients, students, and residents of the facility, program, or organization.

(c) A collaborating dentist must be licensed under this chapter and may enter into a collaborative agreement with no more than four dental hygienists unless otherwise authorized by the board. The board shall develop parameters and a process for obtaining authorization to collaborate with more than four dental hygienists. The collaborative agreement must include:

(1) consideration for medically compromised patients and medical conditions for which a dental evaluation and treatment plan must occur prior to the provision of dental hygiene services;

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(2) age- and procedure-specific standard collaborative practice protocols, including recommended intervals for the performance of dental hygiene services and a period of time in which an examination by a dentist should occur;

(3) copies of consent to treatment form provided to the patient by the dental hygienist;

(4) specific protocols for the placement of pit and fissure sealants and requirements for follow-up care to assure the efficacy of the sealants after application; and

(5) a procedure for creating and maintaining dental records for the patients that are treated by the dental hygienist. This procedure must specify where these records are to be located.

The collaborative agreement must be signed and maintained by the dentist, the dental hygienist, and the facility, program, or organization; must be reviewed annually by the collaborating dentist and dental hygienist; and must be made available to the board upon request.

(d) Before performing any services authorized under this subdivision, a dental hygienist must provide the patient with a consent to treatment form which must include a statement advising the patient that the dental hygiene services provided are not a substitute for a dental examination by a licensed dentist. If the dental hygienist makes any referrals to the patient for further dental procedures, the dental hygienist must fill out a referral form and provide a copy of the form to the collaborating dentist.

(e) For the purposes of this subdivision, a "health care facility, program, or nonprofit organization" is limited to a hospital; nursing home; home health agency; group home serving the elderly, disabled, or juveniles; state-operated facility licensed by the commissioner of human services or the commissioner of corrections; and federal, state, or local public health facility, community clinic, tribal clinic, school authority, Head Start program, or nonprofit organization that serves individuals who are uninsured or who are Minnesota health care public program recipients.

(f) For purposes of this subdivision, a "collaborative agreement" means a written agreement with a licensed dentist who authorizes and accepts responsibility for the services performed by the dental hygienist. The services authorized under this subdivision and the collaborative agreement may be performed without the presence of a licensed dentist and may be performed at a location other than the usual place of practice of the dentist or dental hygienist and without a dentist's diagnosis and treatment plan, unless specified in the collaborative agreement.

(g) Nothing in this subdivision shall limit an advanced dental hygiene practitioner from practicing advanced dental hygiene as authorized under this chapter.

Sec. 8. Minnesota Statutes 2006, section 150A.10, is amended by adding a subdivision to read:

Subd. 1b. **Advanced dental hygiene practitioners.** (a) An advanced dental hygiene practitioner may perform the services authorized under this subdivision.

(b) The oral health services authorized to be performed by an advanced dental hygiene practitioner under this subdivision include:

(1) all services authorized to be performed by a licensed dental hygienist under subdivisions 1, 1a, and 4;

(2) formulating a diagnosis and individualized care plan based on evidence-based standards of care and practice guidelines in collaboration with the patient and members of an oral health care team;

(3) providing primary diagnostic, educational, palliative, therapeutic, prescriptive, and restorative oral health services, including:

(i) evidence-based diagnostic services to identify oral diseases and conditions;

(ii) preparation of cavities and restoration of primary and permanent teeth using direct placement of appropriate dental materials;

(iii) temporary placement of crowns and restorations;

(iv) placement of preformed crowns;

(v) pulpotomies on primary teeth;

(vi) direct and indirect pulp capping in primary and permanent teeth; and

(vii) placement of atraumatic temporary restorations;

(4) prescribing, administering, and dispensing medications for anti-infective therapies, nonnarcotic pain management, and prevention pursuant to and subject to the limitations of the collaborative management agreement and chapter 151;

(5) performing nonsurgical extractions of primary and permanent teeth;

(6) placing and removing sutures;

(7) preventing or intercepting potential orthodontic problems and parafunctional habits by early identification, space maintenance, and appropriate referral;

(8) providing temporary reparative services to patients with defective prosthetic appliances;

(9) consulting, collaborating, and coordinating care with other health care professionals in the provision of evidence-based care as a member of an oral health care team; and

(10) providing referrals as needed to patients for further dental procedures or other health care needs.

(c) An advanced dental hygiene practitioner may supervise registered and unregistered dental assistants. A registered and unregistered dental assistant may perform all services authorized in this chapter or by the board.

(d) The services authorized under this subdivision and the agreement may be performed:

(1) without the patient first being examined by a licensed dentist;

(2) without the presence of a licensed dentist;

(3) without a dentist's diagnosis and treatment plan; and

(4) at a location other than the usual place of practice of the dentist or advanced dental hygiene practitioner.

Sec. 9. Minnesota Statutes 2006, section 150A.10, subdivision 2, is amended to read:

Subd. 2. **Dental assistants.** Every licensed dentist or advanced dental hygiene practitioner who uses the services of any unlicensed person for the purpose of assistance in the practice of dentistry or advanced dental hygiene shall be responsible for the acts of such unlicensed person while engaged in such assistance. Such dentist or advanced dental hygiene practitioner shall permit such unlicensed assistant to perform only those acts which are authorized to be delegated to unlicensed assistants by the Board of Dentistry. Such acts shall be performed under supervision of a licensed dentist or advanced dental hygiene practitioner. The board may permit differing levels of dental assistance based upon recognized educational standards, approved by the board, for the training of dental assistants. The board may also define by rule the scope of practice of registered and nonregistered dental assistants. The board by rule may require continuing education for differing levels of dental assistants, as a condition to their registration or authority to perform their authorized duties. Any licensed dentist or advanced dental hygiene practitioner who shall permit such unlicensed assistant to perform any dental service other than that authorized by the board shall be deemed to be enabling an unlicensed person to practice dentistry, and commission of such an act by such unlicensed assistant shall constitute a violation of sections 150A.01 to 150A.12.

Sec. 10. Minnesota Statutes 2006, section 150A.10, subdivision 4, is amended to read:

Subd. 4. **Restorative procedures.** (a) Notwithstanding subdivisions 1, 1a, and 2, a licensed dental hygienist or a registered dental assistant may perform the following restorative procedures:

(1) place, contour, and adjust amalgam restorations;

(2) place, contour, and adjust glass ionomer;

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10.1 (3) adapt and cement stainless steel crowns; and
10.2 (4) place, contour, and adjust class I and class V supragingival composite restorations
10.3 where the margins are entirely within the enamel.

10.4 (b) The restorative procedures described in paragraph (a) may be performed only if:

10.5 (1) the licensed dental hygienist or the registered dental assistant has completed a
10.6 board-approved course on the specific procedures;

10.7 (2) the board-approved course includes a component that sufficiently prepares the
10.8 dental hygienist or registered dental assistant to adjust the occlusion on the newly placed
10.9 restoration;

10.10 (3) a licensed dentist has authorized the procedure to be performed; and

10.11 (4) a licensed dentist or advanced dental hygiene practitioner is available in the
10.12 clinic while the procedure is being performed.

10.13 (c) The dental faculty who teaches the educators of the board-approved courses
10.14 specified in paragraph (b) must have prior experience teaching these procedures in an
10.15 accredited dental education program.

10.16 Sec. 11. Minnesota Statutes 2006, section 151.01, subdivision 23, is amended to read:

10.17 Subd. 23. **Practitioner.** "Practitioner" means a licensed doctor of medicine,
10.18 licensed doctor of osteopathy duly licensed to practice medicine, licensed doctor of
10.19 dentistry, licensed doctor of optometry, licensed podiatrist, or licensed veterinarian.
10.20 For purposes of sections 151.15, subdivision 4, 151.37, subdivision 2, paragraph (b),
10.21 and 151.461, "practitioner" also means a physician assistant authorized to prescribe,
10.22 dispense, and administer under chapter 147A, ~~or~~ an advanced practice nurse authorized to
10.23 prescribe, dispense, and administer under section 148.235, or an advanced dental hygiene
10.24 practitioner authorized to prescribe, dispense, and administer under chapter 150A.

10.25 Sec. 12. Minnesota Statutes 2007 Supplement, section 151.37, subdivision 2, is
10.26 amended to read:

10.27 Subd. 2. **Prescribing and filing.** (a) A licensed practitioner in the course of
10.28 professional practice only, may prescribe, administer, and dispense a legend drug, and may
10.29 cause the same to be administered by a nurse, a physician assistant, an advanced dental
10.30 hygiene practitioner, or medical student or resident under the practitioner's direction and
10.31 supervision, and may cause a person who is an appropriately certified, registered, or
10.32 licensed health care professional to prescribe, dispense, and administer the same within
10.33 the expressed legal scope of the person's practice as defined in Minnesota Statutes. A
10.34 licensed practitioner may prescribe a legend drug, without reference to a specific patient,

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by directing a nurse, pursuant to section 148.235, subdivisions 8 and 9, an advanced dental hygiene practitioner pursuant to chapter 150A, a physician assistant, or a medical student or resident to adhere to a particular practice guideline or protocol when treating patients whose condition falls within such guideline or protocol, and when such guideline or protocol specifies the circumstances under which the legend drug is to be prescribed and administered. An individual who verbally, electronically, or otherwise transmits a written, oral, or electronic order, as an agent of a prescriber, shall not be deemed to have prescribed the legend drug. This paragraph applies to a physician assistant only if the physician assistant meets the requirements of section 147A.18.

(b) A licensed practitioner that dispenses for profit a legend drug that is to be administered orally, is ordinarily dispensed by a pharmacist, and is not a vaccine, must file with the practitioner's licensing board a statement indicating that the practitioner dispenses legend drugs for profit, the general circumstances under which the practitioner dispenses for profit, and the types of legend drugs generally dispensed. It is unlawful to dispense legend drugs for profit after July 31, 1990, unless the statement has been filed with the appropriate licensing board. For purposes of this paragraph, "profit" means (1) any amount received by the practitioner in excess of the acquisition cost of a legend drug for legend drugs that are purchased in prepackaged form, or (2) any amount received by the practitioner in excess of the acquisition cost of a legend drug plus the cost of making the drug available if the legend drug requires compounding, packaging, or other treatment. The statement filed under this paragraph is public data under section 13.03. This paragraph does not apply to a licensed doctor of veterinary medicine or a registered pharmacist. Any person other than a licensed practitioner with the authority to prescribe, dispense, and administer a legend drug under paragraph (a) shall not dispense for profit. To dispense for profit does not include dispensing by a community health clinic when the profit from dispensing is used to meet operating expenses.

(c) A prescription or drug order for a legend drug is not valid if it is based solely on an online questionnaire, unless it can be established that the prescription or order was based on a documented patient evaluation adequate to establish a diagnosis and identify underlying conditions and contraindications to treatment.