

Minnesota Session Laws

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Key: (1) ~~language to be deleted~~ (2) new language

2009, Regular Session

CHAPTER 95--S.F.No. 2083

An act

relating to higher education; amending postsecondary education provisions; regulating course equivalency guides; requiring notice to prospective students; requiring certain information be provided; providing for sale of American made clothing; amending Minnesota Office of Higher Education responsibilities and provisions; providing for a resident stating appeal; establishing programs; defining terms; regulating grants, scholarships, and work-study; requiring an annual certificate; regulating certain board and council membership provisions; requiring job placement impact reviews; regulating state-owned facilities; regulating dental therapists; establishing fees; providing criminal penalties; requiring reports; regulating certain appropriations; establishing an account; providing for proceeds of certain sale of property; appropriating money; amending Minnesota Statutes 2008, sections 135A.08, subdivision 1; 135A.25, subdivision 4; 136A.01, subdivision 2; 136A.06; 136A.08, subdivision 1, by adding a subdivision; 136A.101, subdivision 4; 136A.121, subdivision 9, by adding subdivisions; 136A.127, subdivisions 2, 4, 9, 14, by adding subdivisions; 136A.1701, subdivision 10; 136A.87; 136F.02, subdivision 1; 136F.03, subdivision 4; 136F.04, subdivision 4; 136F.045; 136F.46, subdivision 3; 137.0245, subdivision 2; 137.0246, subdivision 2; 137.025, subdivision 1; 150A.01, by adding subdivisions; 150A.05, subdivision 2, by adding a subdivision; 150A.06, subdivisions 2d, 5, 6, by adding subdivisions; 150A.08, subdivisions 1, 3a, 5; 150A.09, subdivisions 1, 3; 150A.091, subdivisions 2, 3, 5, 8, 10; 150A.10, subdivisions 1, 2, 3, 4; 150A.11, subdivision 4; 150A.12; 150A.21, subdivisions 1, 4; 151.01, subdivision 23; 179A.03, subdivision 14; 299A.45, subdivision 1; 340A.404, subdivision 4a; proposing coding for new law in Minnesota Statutes, chapters 135A; 136A; 136F; 137; 150A; repealing Minnesota Statutes 2008, sections 136A.127, subdivisions 8, 12, 13; 150A.061.

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

ARTICLE 3 DENTAL THERAPISTS

Section 1. Minnesota Statutes 2008, section 150A.01, is amended by adding a subdivision to read:

Subd. 5a. **Dental therapist.** "Dental therapist" means a person licensed under this chapter to perform the services authorized under section 150A.105 or any other services authorized under this chapter.

Sec. 2. Minnesota Statutes 2008, section 150A.01, is amended by adding a subdivision to read:

Subd. 1a. **Advanced dental therapist.** "Advanced dental therapist" means a person licensed as a dental therapist under this chapter and who has been certified by the board to practice as an advanced dental therapist under section 150A.106.

Sec. 3. Minnesota Statutes 2008, section 150A.05, is amended by adding a subdivision to read:

Subd. 1b. **Practice of dental therapy.** A person shall be deemed to be practicing as a dental therapist within the meaning of this chapter who:

(1) works under the supervision of a Minnesota-licensed dentist under a collaborative management agreement as specified under section 150A.105;

(2) practices in settings that serve low-income, uninsured, and underserved patients or are located in dental health professional shortage areas; and

(3) provides oral health care services, including preventive, oral evaluation and assessment, educational, palliative, therapeutic, and restorative services as authorized under sections 150A.105 and 150A.106 and within the context of a collaborative management agreement.

Sec. 4. Minnesota Statutes 2008, 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 dental students, dental therapy students, dental hygiene students, and dental assisting students of the University of Minnesota, schools of dental hygiene, schools with a dental therapy education program, or schools of dental assisting approved by the board, when acting under the direction and supervision of a licensed dentist, a licensed dental therapist, 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 or a licensed advanced dental therapist in accordance with section 150A.10, subdivision 3.

Sec. 5. Minnesota Statutes 2008, section 150A.06, is amended by adding a subdivision to read:

Subd. 1d. **Dental therapists.** A person of good moral character who has graduated with a baccalaureate degree or a master's degree from a dental therapy education program that has been approved by the board or accredited by the American Dental Association Commission on Dental Accreditation or another board-approved national accreditation organization may apply for licensure.

The applicant must submit an application and fee as prescribed by the board and a diploma or certificate from a dental therapy education program. Prior to being licensed, the applicant must pass a comprehensive, competency-based clinical examination that is approved by the board and administered independently of an institution providing dental therapy education. The applicant must also pass an examination testing the applicant's knowledge of the Minnesota laws and rules relating to the practice of dentistry. An applicant who has failed the clinical examination twice is ineligible to retake the clinical examination until further education and training are obtained as specified by the board. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be licensed as a dental therapist.

Sec. 6. Minnesota Statutes 2008, section 150A.06, is amended by adding a subdivision to read:

Subd. 1e. **Resident dental providers.** A person who is a graduate of an undergraduate program and is an enrolled graduate student of an advanced dental education program shall obtain from the board a license to practice as a resident dental hygienist or dental therapist. The license must be designated "resident dental provider license" and authorizes the licensee to practice only under the supervision of a licensed dentist or licensed dental therapist. A resident dental provider license must be renewed annually by the board. An applicant for a resident dental provider license shall pay a

nonrefundable fee set by the board for issuing and renewing the license. The requirements of sections 150A.01 to 150A.21 apply to resident dental providers except as specified in rules adopted by the board. A resident dental provider license does not qualify a person for licensure under subdivision 1d or 2.

Sec. 7. Minnesota Statutes 2008, section 150A.06, subdivision 2d, is amended to read:

Subd. 2d. **Continuing education and professional development waiver.** (a) The board shall grant a waiver to the continuing education requirements under this chapter for a licensed dentist, a licensed dental therapist, licensed dental hygienist, or registered dental assistant who documents to the satisfaction of the board that the dentist, a dental therapist, dental hygienist, or registered dental assistant has retired from active practice in the state and limits the provision of dental care services to those offered without compensation in a public health, community, or tribal clinic or a nonprofit organization that provides services to the indigent or to recipients of medical assistance, general assistance medical care, or MinnesotaCare programs.

(b) The board may require written documentation from the volunteer and retired dentist, a dental therapist, dental hygienist, or registered dental assistant prior to granting this waiver.

(c) The board shall require the volunteer and retired dentist, dental therapist, dental hygienist, or registered dental assistant to meet the following requirements:

- (1) a licensee or registrant seeking a waiver under this subdivision must complete and document at least five hours of approved courses in infection control, medical emergencies, and medical management for the continuing education cycle; and
- (2) provide documentation of certification in advanced or basic cardiac life support recognized by the American Heart Association, the American Red Cross, or an equivalent entity.

Sec. 8. Minnesota Statutes 2008, section 150A.06, subdivision 5, is amended to read:

Subd. 5. **Fraud in securing licenses or registrations.** Every person implicated in employing fraud or deception in applying for or securing a license or registration to practice dentistry, dental hygiene, ~~or dental therapy~~, or dental assisting, or in annually renewing a license or registration under sections 150A.01 to 150A.12 is guilty of a gross misdemeanor.

Sec. 9. Minnesota Statutes 2008, section 150A.06, subdivision 6, is amended to read:

Subd. 6. **Display of name and certificates.** The initial license and subsequent renewal, or current registration certificate, of every dentist, a dental therapist, dental hygienist, or dental assistant shall be conspicuously displayed in every office in which that person practices, in plain sight of patients. Near or on the entrance door to every office where dentistry is practiced, the name of each dentist practicing there, as inscribed on the current license certificate, shall be displayed in plain sight.

Sec. 10. Minnesota Statutes 2008, section 150A.08, subdivision 1, is amended to read:

Subdivision 1. **Grounds.** The board may refuse or by order suspend or revoke, limit or modify by imposing conditions it deems necessary, ~~any the license to practice dentistry or dental hygiene~~ of a dentist, dental therapist, or dental hygienist, or the registration of any dental assistant upon any of the following grounds:

- (1) fraud or deception in connection with the practice of dentistry or the securing of a license or registration certificate;
- (2) conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of a felony or gross misdemeanor reasonably related to the practice of dentistry as evidenced by a certified copy of the conviction;
- (3) conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of an offense involving moral turpitude as evidenced by a certified copy of the conviction;
- (4) habitual overindulgence in the use of intoxicating liquors;
- (5) improper or unauthorized prescription, dispensing, administering, or personal or other use of any legend drug as defined in chapter 151, of any chemical as defined in chapter 151, or of any controlled substance as defined in chapter 152;
- (6) conduct unbecoming a person licensed to practice dentistry, dental therapy, or dental hygiene or registered as a dental assistant, or conduct contrary to the best interest of the public, as such conduct is defined by the rules of the board;
- (7) gross immorality;
- (8) any physical, mental, emotional, or other disability which adversely affects a dentist's, dental therapist's, dental hygienist's, or registered dental assistant's ability to perform the service for which the person is licensed or registered;
- (9) revocation or suspension of a license, registration, or equivalent authority to practice, or other disciplinary action or denial of a license or registration application taken by a licensing, registering, or credentialing authority of another state, territory, or country as evidenced by a certified copy of the licensing authority's order, if the disciplinary action or application denial was based on facts that would provide a basis for disciplinary action under this chapter and if the action was taken only after affording the credentialed person or applicant notice and opportunity to refute the allegations or pursuant to stipulation or other agreement;
- (10) failure to maintain adequate safety and sanitary conditions for a dental office in accordance with the standards established by the rules of the board;
- (11) employing, assisting, or enabling in any manner an unlicensed person to practice dentistry;
- (12) failure or refusal to attend, testify, and produce records as directed by the board under subdivision 7;
- (13) violation of, or failure to comply with, any other provisions of sections 150A.01 to 150A.12, the rules of the Board of Dentistry, or any disciplinary order issued by the board, sections 144.291 to 144.298 or 595.02, subdivision 1, paragraph (d), or for any other just cause related to the practice of dentistry. Suspension, revocation, modification or limitation of any license shall not be based upon any judgment as to therapeutic or monetary value of any individual drug prescribed or any individual treatment rendered, but only upon a repeated pattern of conduct;
- (14) knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo; or
- (15) aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:
 - (i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

- (ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;
- (iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5 ; or
- (iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

Sec. 11. Minnesota Statutes 2008, section 150A.08, subdivision 3a, is amended to read:

Subd. 3a. **Costs; additional penalties.** (a) The board may impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive a licensee or registrant of any economic advantage gained by reason of the violation, to discourage similar violations by the licensee or registrant or any other licensee or registrant, or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members.

(b) In addition to costs and penalties imposed under paragraph (a), the board may also:

- (1) order the dentist, dental therapist, dental hygienist, or dental assistant to provide unremunerated service;
- (2) censure or reprimand the dentist, dental therapist, dental hygienist, or dental assistant; or
- (3) any other action as allowed by law and justified by the facts of the case.

Sec. 12. Minnesota Statutes 2008, section 150A.08, subdivision 5, is amended to read:

Subd. 5. **Medical examinations.** If the board has probable cause to believe that a dentist, dental therapist, dental hygienist, registered dental assistant, or applicant engages in acts described in subdivision 1, clause (4) or (5), or has a condition described in subdivision 1, clause (8), it shall direct the dentist, dental therapist, dental hygienist, assistant, or applicant to submit to a mental or physical examination or a chemical dependency assessment. For the purpose of this subdivision, every dentist, dental therapist, hygienist, or assistant licensed or registered under this chapter or person submitting an application for a license or registration is deemed to have given consent to submit to a mental or physical examination when directed in writing by the board and to have waived all objections in any proceeding under this section to the admissibility of the examining physician's testimony or examination reports on the ground that they constitute a privileged communication. Failure to submit to an examination without just cause may result in an application being denied or a default and final order being entered without the taking of testimony or presentation of evidence, other than evidence which may be submitted by affidavit, that the licensee, registrant, or applicant did not submit to the examination. A dentist, dental therapist, dental hygienist, registered dental assistant, or applicant affected under this section shall at reasonable intervals be afforded an opportunity to demonstrate ability to start or resume the competent practice of dentistry or perform the duties of a dental therapist, dental hygienist, or registered dental assistant with

reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board is admissible, is subject to subpoena, or may be used against the dentist, dental therapist, dental hygienist, registered dental assistant, or applicant in any proceeding not commenced by the board. Information obtained under this subdivision shall be classified as private pursuant to the Minnesota Government Data Practices Act.

Sec. 13. Minnesota Statutes 2008, section 150A.09, subdivision 1, is amended to read:

Subdivision 1. **Registration information and procedure.** On or before the license or registration certificate expiration date every licensed dentist, dental therapist, dental hygienist, and registered dental assistant shall transmit to the executive secretary of the board, pertinent information required by the board, together with the fee established by the board. At least 30 days before a license or registration certificate expiration date, the board shall send a written notice stating the amount and due date of the fee and the information to be provided to every licensed dentist, dental therapist, dental hygienist, and registered dental assistant.

Sec. 14. Minnesota Statutes 2008, section 150A.09, subdivision 3, is amended to read:

Subd. 3. **Current address, change of address.** Every dentist, dental therapist, dental hygienist, and registered dental assistant shall maintain with the board a correct and current mailing address. For dentists engaged in the practice of dentistry, the address shall be that of the location of the primary dental practice. Within 30 days after changing addresses, every dentist, dental therapist, dental hygienist, and registered dental assistant shall provide the board written notice of the new address either personally or by first class mail.

Sec. 15. Minnesota Statutes 2008, section 150A.091, subdivision 2, is amended to read:

Subd. 2. **Application fees.** Each applicant for licensure or registration shall submit with a license or registration application a nonrefundable fee in the following amounts in order to administratively process an application:

- (1) dentist, \$140;
- (2) limited faculty dentist, \$140;
- (3) resident dentist, \$55;
- (4) dental therapist, \$100;
- (5) dental hygienist, \$55;
- ~~(5)~~ (6) registered dental assistant, \$35; and
- ~~(6)~~ (7) dental assistant with a limited registration, \$15.

Sec. 16. Minnesota Statutes 2008, section 150A.091, subdivision 3, is amended to read:

Subd. 3. **Initial license or registration fees.** Along with the application fee, each of the following licensees or registrants shall submit a separate prorated initial license or registration fee. The prorated initial fee shall be established by the board based on the number of months of the licensee's or registrant's initial term as described in Minnesota Rules, part 3100.1700, subpart 1a, not to exceed the following monthly fee amounts:

- (1) dentist, \$14 times the number of months of the initial term;
- (2) dental therapist, \$10 times the number of months of initial term;
- (3) dental hygienist, \$5 times the number of months of the initial term;

~~(3)~~ (4) registered dental assistant, \$3 times the number of months of initial term; and
~~(4)~~ (5) dental assistant with a limited registration, \$1 times the number of months of the initial term.

Sec. 17. Minnesota Statutes 2008, section 150A.091, subdivision 5, is amended to read:

Subd. 5. **Biennial license or registration fees.** Each of the following licensees or registrants shall submit with a biennial license or registration renewal application a fee as established by the board, not to exceed the following amounts:

- (1) dentist, \$336;
- (2) dental therapist, \$180;
- ~~(3)~~ (3) dental hygienist, \$118;
- ~~(3)~~ (4) registered dental assistant, \$80; and
- ~~(4)~~ (5) dental assistant with a limited registration, \$24.

Sec. 18. Minnesota Statutes 2008, section 150A.091, subdivision 8, is amended to read:

Subd. 8. **Duplicate license or registration fee.** Each licensee or registrant shall submit, with a request for issuance of a duplicate of the original license or registration, or of an annual or biennial renewal of it, a fee in the following amounts:

- (1) original dentist, dental therapist, or dental hygiene license, \$35; and
- (2) initial and renewal registration certificates and license renewal certificates, \$10.

Sec. 19. Minnesota Statutes 2008, section 150A.091, subdivision 10, is amended to read:

Subd. 10. **Reinstatement fee.** No dentist, dental therapist, dental hygienist, or registered dental assistant whose license or registration has been suspended or revoked may have the license or registration reinstated or a new license or registration issued until a fee has been submitted to the board in the following amounts:

- (1) dentist, \$140;
- (2) dental therapist, \$85;
- ~~(3)~~ (3) dental hygienist, \$55; and
- ~~(3)~~ (4) registered dental assistant, \$35.

Sec. 20. Minnesota Statutes 2008, section 150A.10, subdivision 1, is amended to read:

Subdivision 1. **Dental hygienists.** Any licensed dentist, licensed dental therapist, public institution, or school authority may obtain services from a licensed dental hygienist. ~~Such~~ The licensed dental hygienist may provide those services defined in section 150A.05, subdivision 1a. ~~Such~~ The services provided shall not include the establishment of a final diagnosis or treatment plan for a dental patient. ~~Such~~ All services shall be provided under supervision of a licensed dentist. Any licensed dentist who shall permit any dental service by a dental hygienist other than those 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 shall constitute a violation of sections 150A.01 to 150A.12.

Sec. 21. Minnesota Statutes 2008, section 150A.10, subdivision 2, is amended to read:

Subd. 2. **Dental assistants.** Every licensed dentist and dental therapist who uses the services of any unlicensed person for the purpose of assistance in the practice of

dentistry or dental therapy shall be responsible for the acts of such unlicensed person while engaged in such assistance. ~~Such~~ The dentist or dental therapist shall permit ~~such~~ the unlicensed assistant to perform only those acts which are authorized to be delegated to unlicensed assistants by the Board of Dentistry. ~~Such~~ The acts shall be performed under supervision of a licensed dentist or dental therapist. A licensed dental therapist shall not supervise more than four registered dental assistants at any one practice setting. 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 dental therapist who ~~shall permit such~~ permits an 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~~ an unlicensed assistant shall constitute a violation of sections 150A.01 to 150A.12.

Sec. 22. Minnesota Statutes 2008, section 150A.10, subdivision 3, is amended to read:

Subd. 3. **Dental technicians.** Every licensed dentist and dental therapist who uses the services of any unlicensed person, other than under the dentist's or dental therapist's supervision and within ~~such dentist's own office~~ the same practice setting, for the purpose of constructing, altering, repairing or duplicating any denture, partial denture, crown, bridge, splint, orthodontic, prosthetic or other dental appliance, shall be required to furnish such unlicensed person with a written work order in such form as shall be prescribed by the rules of the board; ~~said~~. The work order shall be made in duplicate form, a duplicate copy to be retained in a permanent file ~~in of the dentist's office~~ dentist or dental therapist at the practice setting for a period of two years, and the original to be retained in a permanent file for a period of two years by ~~such~~ the unlicensed person in that person's place of business. ~~Such~~ The permanent file of work orders to be kept by ~~such~~ the dentist, dental therapist, or by ~~such~~ the unlicensed person shall be open to inspection at any reasonable time by the board or its duly constituted agent.

Sec. 23. Minnesota Statutes 2008, 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;
 - (3) adapt and cement stainless steel crowns; and
 - (4) place, contour, and adjust class I and class V supragingival composite restorations where the margins are entirely within the enamel.
- (b) The restorative procedures described in paragraph (a) may be performed only if:
- (1) the licensed dental hygienist or the registered dental assistant has completed a board-approved course on the specific procedures;
 - (2) the board-approved course includes a component that sufficiently prepares the dental hygienist or registered dental assistant to adjust the occlusion on the newly placed restoration;
 - (3) a licensed dentist or licensed advanced dental therapist has authorized the

procedure to be performed; and

(4) a licensed dentist or licensed advanced dental therapist is available in the clinic while the procedure is being performed.

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

Sec. 24. **[150A.105] DENTAL THERAPIST.**

Subdivision 1. General. A dental therapist licensed under this chapter shall practice under the supervision of a Minnesota-licensed dentist and under the requirements of this chapter.

Subd. 2. Limited practice settings. A dental therapist licensed under this chapter is limited to primarily practicing in settings that serve low-income, uninsured, and underserved patients or in a dental health professional shortage area.

Subd. 3. Collaborative management agreement. (a) Prior to performing any of the services authorized under this chapter, a dental therapist must enter into a written collaborative management agreement with a Minnesota-licensed dentist. A collaborating dentist is limited to entering into a collaborative agreement with no more than five dental therapists or advanced dental therapists at any one time. The agreement must include:

(1) practice settings where services may be provided and the populations to be served;

(2) any limitations on the services that may be provided by the dental therapist, including the level of supervision required by the collaborating dentist;

(3) age and procedure specific practice protocols, including case selection criteria, assessment guidelines, and imaging frequency;

(4) a procedure for creating and maintaining dental records for the patients that are treated by the dental therapist;

(5) a plan to manage medical emergencies in each practice setting where the dental therapist provides care;

(6) a quality assurance plan for monitoring care provided by the dental therapist, including patient care review, referral follow-up, and a quality assurance chart review;

(7) protocols for administering and dispensing medications authorized under subdivision 5, and section 150A.106, including the specific conditions and circumstance under which these medications are to be dispensed and administered;

(8) criteria relating to the provision of care to patients with specific medical conditions or complex medication histories, including requirements for consultation prior to the initiation of care;

(9) supervision criteria of dental assistants; and

(10) a plan for the provision of clinical resources and referrals in situations which are beyond the capabilities of the dental therapist.

(b) A collaborating dentist must be licensed and practicing in Minnesota. The collaborating dentist shall accept responsibility for all services authorized and performed by the dental therapist pursuant to the management agreement. Any licensed dentist who permits a dental therapist to perform a dental service other than those authorized under this section or by the board, or any dental therapist who performs an unauthorized service, violates sections 150A.01 to 150A.12.

(c) Collaborative management agreements must be signed and maintained by the

collaborating dentist and the dental therapist. Agreements must be reviewed, updated, and submitted to the board on an annual basis.

Subd. 4. **Scope of practice.** (a) A licensed dental therapist may perform dental services as authorized under this section within the parameters of the collaborative management agreement.

(b) The services authorized to be performed by a licensed dental therapist include the oral health services, as specified in paragraphs (c) and (d), and within the parameters of the collaborative management agreement.

(c) A licensed dental therapist may perform the following services under general supervision, unless restricted or prohibited in the collaborative management agreement:

(1) oral health instruction and disease prevention education, including nutritional counseling and dietary analysis;

(2) preliminary charting of the oral cavity;

(3) making radiographs;

(4) mechanical polishing;

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

(6) pulp vitality testing;

(7) application of desensitizing medication or resin;

(8) fabrication of athletic mouthguards;

(9) placement of temporary restorations;

(10) fabrication of soft occlusal guards;

(11) tissue conditioning and soft reline;

(12) atraumatic restorative therapy;

(13) dressing changes;

(14) tooth reimplantation;

(15) administration of local anesthetic; and

(16) administration of nitrous oxide.

(d) A licensed dental therapist may perform the following services under indirect supervision:

(1) emergency palliative treatment of dental pain;

(2) the placement and removal of space maintainers;

(3) cavity preparation;

(4) restoration of primary and permanent teeth;

(5) placement of temporary crowns;

(6) preparation and placement of preformed crowns; and

(7) pulpotomies on primary teeth;

(8) indirect and direct pulp capping on primary and permanent teeth;

(9) stabilization of reimplanted teeth;

(10) extractions of primary teeth;

(11) suture removal;

(12) brush biopsies;

(13) repair of defective prosthetic devices; and

(14) recementing of permanent crowns.

(e) For purposes of this section and section 150A.106, "general supervision" and "indirect supervision" have the meanings given in Minnesota Rules, part 3100.0100, subpart 21.

Subd. 5. **Dispensing authority.** (a) A licensed dental therapist may dispense and administer the following drugs within the parameters of the collaborative management agreement and within the scope of practice of the dental therapist: analgesics, anti-inflammatories, and antibiotics.

(b) The authority to dispense and administer shall extend only to the categories of drugs identified in this subdivision, and may be further limited by the collaborative management agreement.

(c) The authority to dispense includes the authority to dispense sample drugs within the categories identified in this subdivision if dispensing is permitted by the collaborative management agreement.

(d) A licensed dental therapist is prohibited from dispensing or administering a narcotic drug as defined in section 152.01, subdivision 10.

Subd. 6. **Application of other laws.** A licensed dental therapist authorized to practice under this chapter is not in violation of section 150A.05 as it relates to the unauthorized practice of dentistry if the practice is authorized under this chapter and is within the parameters of the collaborative management agreement.

Subd. 7. **Use of dental assistants.** (a) A licensed dental therapist may supervise dental assistants to the extent permitted in the collaborative management agreement and according to section 150A.10, subdivision 2.

(b) Notwithstanding paragraph (a), a licensed dental therapist is limited to supervising no more than four registered dental assistants or nonregistered dental assistants at any one practice setting.

Subd. 8. **Definitions.** (a) For the purposes of this section, the following definitions apply.

(b) "Practice settings that serve the low-income and underserved" mean:

(1) critical access dental provider settings as designated by the commissioner of human services under section 256B.76, subdivision 4;

(2) dental hygiene collaborative practice settings identified in section 150A.10, subdivision 1a, paragraph (e), and including medical facilities, assisted living facilities, federally qualified health centers, and organizations eligible to receive a community clinic grant under section 145.9268, subdivision 1;

(3) military and veterans administration hospitals, clinics, and care settings;

(4) a patient's residence or home when the patient is home-bound or receiving or eligible to receive home care services or home and community-based waived services, regardless of the patient's income;

(5) oral health educational institutions; or

(6) any other clinic or practice setting, including mobile dental units, in which at least 50 percent of the total patient base of the dental therapist or advanced dental therapist consists of patients who:

(i) are enrolled in a Minnesota health care program;

(ii) have a medical disability or chronic condition that creates a significant barrier to receiving dental care;

(iii) do not have dental health coverage, either through a public health care program or private insurance, and have an annual gross family income equal to or less than 200 percent of the federal poverty guidelines; or

(iv) do not have dental health coverage either through a state public health care program or private insurance, and whose family gross income is equal to or less than 200

percent of the federal poverty guidelines.

(c) "Dental health professional shortage area" means an area that meets the criteria established by the secretary of the United States Department of Health and Human Services and is designated as such under United States Code, title 42, section 254e.

Sec. 25. [150A.106] ADVANCED PRACTICE DENTAL THERAPIST.

Subdivision 1. General. In order to be certified by the board to practice as an advanced dental therapist, a person must:

- (1) complete a dental therapy education program;
- (2) pass an examination to demonstrate competency under the dental therapy scope of practice;
- (3) be licensed as a dental therapist;
- (4) complete 2,000 hours of dental therapy clinical practice under direct or indirect supervision;
- (5) graduate from a master's advanced dental therapy education program;
- (6) pass a board-approved certification examination to demonstrate competency under the advanced scope of practice; and
- (7) submit an application for certification as prescribed by the board.

Subd. 2. Scope of practice. (a) An advanced dental therapist certified by the board under this section may perform the following services and procedures pursuant to the written collaborative management agreement:

- (1) an oral evaluation and assessment of dental disease and the formulation of an individualized treatment plan authorized by the collaborating dentist;
- (2) the services and procedures described under section 150A.105, subdivision 4, paragraphs (c) and (d); and
- (3) nonsurgical extractions of permanent teeth as limited in subdivision 3, paragraph (b).

(b) The services and procedures described under this subdivision may be performed under general supervision.

Subd. 3. Practice limitation. (a) An advanced practice dental therapist shall not perform any service or procedure described in subdivision 2 except as authorized by the collaborating dentist.

(b) An advanced dental therapist may perform nonsurgical extractions of periodontally diseased permanent teeth with tooth mobility of +3 to +4 under general supervision if authorized in advance by the collaborating dentist. The advanced dental therapist shall not extract a tooth for any patient if the tooth is unerupted, impacted, fractured, or needs to be sectioned for removal.

(c) The collaborating dentist is responsible for directly providing or arranging for another dentist or specialist to provide any necessary advanced services needed by the patient.

(d) An advanced dental therapist in accordance with the collaborative management agreement must refer patients to another qualified dental or health care professional to receive any needed services that exceed the scope of practice of the advanced dental therapist.

(e) In addition to the collaborative management agreement requirements described in section 150A.105, a collaborative management agreement entered into with an advanced dental therapist must include specific written protocols to govern situations in which

the advanced dental therapist encounters a patient who requires treatment that exceeds the authorized scope of practice of the advanced dental therapist. The collaborating dentist must ensure that a dentist is available to the advanced dental therapist for timely consultation during treatment if needed and must either provide or arrange with another dentist or specialist to provide the necessary treatment to any patient who requires more treatment than the advanced dental therapist is authorized to provide.

Subd. 4. **Medications.** (a) An advanced dental therapist may provide, dispense, and administer the following drugs within the parameters of the collaborative management agreement, within the scope of practice of the advanced dental therapist practitioner, and with the authorization of the collaborating dentist: analgesics, anti-inflammatories, and antibiotics.

(b) The authority to provide, dispense, and administer shall extend only to the categories of drugs identified in this subdivision, and may be further limited by the collaborative management agreement.

(c) The authority to dispense includes the authority to dispense sample drugs within the categories identified in this subdivision if dispensing is permitted by the collaborative management agreement.

(d) Notwithstanding paragraph (a), an advanced dental therapist is prohibited from providing, dispensing, or administering a narcotic drug as defined in section 152.01, subdivision 10.

Sec. 26. Minnesota Statutes 2008, section 150A.11, subdivision 4, is amended to read:

Subd. 4. **Dividing fees.** It shall be unlawful for any dentist to divide fees with or promise to pay a part of the dentist's fee to, or to pay a commission to, any dentist or other person who calls the dentist in consultation or who sends patients to the dentist for treatment, or operation, but nothing herein shall prevent licensed dentists from forming a bona fide partnership for the practice of dentistry, nor to the actual employment by a licensed dentist of, a licensed dental therapist, a licensed dental hygienist, or another licensed dentist.

Sec. 27. Minnesota Statutes 2008, section 150A.12, is amended to read:

150A.12 VIOLATION AND DEFENSES.

Every person who violates any of the provisions of sections 150A.01 to 150A.12 for which no specific penalty is provided herein, shall be guilty of a gross misdemeanor; and, upon conviction, punished by a fine of not more than \$3,000 or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment. In the prosecution of any person for violation of sections 150A.01 to 150A.12, it shall not be necessary to allege or prove lack of a valid license to practice dentistry ~~or, dental hygiene, or dental therapy~~ but ~~such matter~~ shall be a matter of defense to be established by the defendant.

Sec. 28. Minnesota Statutes 2008, section 150A.21, subdivision 1, is amended to read:

Subdivision 1. **Patient's name and Social Security number.** Every complete upper and lower denture and removable dental prosthesis fabricated by a dentist licensed under section 150A.06, or fabricated pursuant to the dentist's or dental therapist's work order, shall be marked with the name and Social Security number of the patient for whom the prosthesis is intended. The markings shall be done during fabrication and shall be

permanent, legible and cosmetically acceptable. The exact location of the markings and the methods used to apply or implant them shall be determined by the dentist or dental laboratory fabricating the prosthesis. If in the professional judgment of the dentist or dental laboratory, this identification is not practicable, identification shall be provided as follows:

- (a) The Social Security number of the patient may be omitted if the name of the patient is shown;
- (b) The initials of the patient may be shown alone, if use of the name of the patient is impracticable;
- (c) The identification marks may be omitted in their entirety if none of the forms of identification specified in clauses (a) and (b) are practicable or clinically safe.

Sec. 29. Minnesota Statutes 2008, section 150A.21, subdivision 4, is amended to read:

Subd. 4. **Failure to comply.** Failure of any dentist or dental therapist to comply with this section shall be deemed to be a violation for which the dentist or dental therapist may be subject to proceedings pursuant to section 150A.08, provided the dentist is charged with the violation within two years of initial insertion of the dental prosthetic device.

Sec. 30. Minnesota Statutes 2008, section 151.01, subdivision 23, is amended to read:

Subd. 23. **Practitioner.** "Practitioner" means a licensed doctor of medicine, licensed doctor of osteopathy duly licensed to practice medicine, licensed doctor of dentistry, licensed doctor of optometry, licensed podiatrist, or licensed veterinarian. For purposes of sections 151.15, subdivision 4, 151.37, subdivision 2, paragraphs (b), (e), and (f), and 151.461, "practitioner" also means a physician assistant authorized to prescribe, dispense, and administer under chapter 147A, or an advanced practice nurse authorized to prescribe, dispense, and administer under section 148.235. For purposes of sections 151.15, subdivision 4; 151.37, subdivision 2, paragraph (b); and 151.461, "practitioner" also means a dental therapist authorized to dispense and administer under chapter 150A.

Sec. 31. **IMPACT OF DENTAL THERAPISTS.**

(a) The Board of Dentistry shall evaluate the impact of the use of dental therapists on the delivery of and access to dental services. The board shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over health care by January 15, 2014:

- (1) the number of dental therapists annually licensed by the board beginning in 2011;
- (2) the settings where licensed dental therapists are practicing and the populations being served;
- (3) the number of complaints filed against dental therapists and the basis for each complaint; and
- (4) the number of disciplinary actions taken against dental therapists.

(b) The board, in consultation with the Department of Human Services, shall also include the number and type of dental services that were performed by dental therapists and reimbursed by the state under the Minnesota state health care programs for the 2013 fiscal year.

(c) The Board of Dentistry, in consultation with the Department of Health, shall develop an evaluation process that focuses on assessing the impact of dental therapists in terms of patient safety, cost-effectiveness, and access to dental services. The process shall focus on the following outcome measures:

- (1) number of new patients served;
 - (2) reduction in waiting times for needed services;
 - (3) decreased travel time for patients;
 - (4) impact on emergency room usage for dental care; and
 - (5) costs to the public health care system.
- (d) The evaluation process shall be used by the board in the report required in paragraph (a) and shall expire January 1, 2014.

Sec. 32. **REPEALER.**

Minnesota Statutes 2008, section 150A.061, is repealed.

Presented to the governor May 13, 2009

Signed by the governor May 16, 2009, 4:15 p.m.