

# HOUSE BILL REPORT

## ESHB 1678

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**As Passed House:**

March 4, 2023

**Title:** An act relating to establishing and authorizing the profession of dental therapy to practice in federally qualified health centers and look-alikes.

**Brief Description:** Establishing and authorizing the profession of dental therapy.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Riccelli, Lekanoff, Stonier, Morgan, Bateman, Macri, Ormsby, Slatter, Entenman, Ramos, Peterson, Tharinger, Chopp, Ryu, Pollet, Davis, Harris, Taylor, Simmons, Kloba and Gregerson).

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 2/7/23, 2/17/23 [DPS];

Appropriations: 2/21/23, 2/23/23 [DPS(HCW)].

**Floor Activity:**

Passed House: 3/4/23, 53-42.

**Brief Summary of Engrossed Substitute Bill**

- Establishes the profession of dental therapy in Washington and sets the requirements for licensure, the scope of practice, and the settings in which dental therapists can practice.
- Allows a dental therapist to supervise dental hygienists, expanded function dental auxiliaries, and dental assistants.

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**HOUSE COMMITTEE ON HEALTH CARE & WELLNESS**

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Bronoske,

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Davis, Macri, Orwall, Simmons, Stonier, Thai and Tharinger.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Barnard and Graham.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives Harris, Maycumber and Mosbrucker.

**Staff:** Kim Weidenaar (786-7120).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on Health Care & Wellness be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Chopp, Davis, Fitzgibbon, Lekanoff, Pollet, Riccelli, Ryu, Senn, Simmons, Slatter, Springer, Stonier and Tharinger.

**Minority Report:** Do not pass. Signed by 12 members: Representatives Bergquist, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler, Connors, Couture, Dye, Rude, Sandlin, Schmick and Steele.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Harris.

**Staff:** Lily Smith (786-7175).

### **Background:**

#### Dental Personnel in Washington.

Washington has a variety of credentialed dental providers who provide assistance to licensed dentists. For example:

- Dental hygienists remove deposits and stains from the surfaces of teeth, apply topical preventive or prophylactic agents, polish and smooth restorations, perform root planing and soft tissue curettage, and perform other operations and services delegated to them by a dentist. In order to be licensed, dental hygienists must complete an educational program, pass an examination, and fulfill continuing education requirements.
- Dental assistants are authorized to perform patient care and laboratory duties as authorized by the Dental Quality Assurance Commission (Dental Commission) in rule. Dental assistants must register with the Dental Commission.
- Expanded function dental auxiliaries may perform the duties of a dental assistant and may also perform coronal polishing, give fluoride treatments, apply sealants, place dental x-ray film and expose and develop the films, give the patient oral health instruction, place and carve direct restorations, and take final impressions. In order to be licensed, an expanded function dental auxiliary must complete a dental assistant

education program and an expanded function dental auxiliary education program approved by the Dental Commission and pass an examination.

- Dental anesthesia assistants perform duties related to dental anesthesia under the supervision of an oral and maxillofacial surgeon or dental anesthesiologist. In order to be certified, a dental anesthesia assistant must complete a training course, complete a course in basic life support and cardiac pulmonary resuscitation, and provide a supervisor's attestation.

#### Dental Health Aide Therapists.

The federal Community Health Aide Program (CHAP) is a workforce model available in tribal communities that includes three different provider types that act as extenders of their licensed clinical supervisor. The national CHAP currently includes a behavioral health aide, community health aide, and dental health aide.

As part of the CHAP, dental health aide therapists (DHATs) are authorized to provide a variety of services pursuant to an agreement with a supervising dentist, including fillings and preventive services. A DHAT may only perform pulpal therapy (not including pulpotomies on deciduous teeth) or extractions of adult teeth after consultation with a dentist who determines that the procedure is a medical emergency that cannot be resolved with palliative treatment. A DHAT may not otherwise perform oral or jaw surgeries other than uncomplicated extractions. A dental health aide therapist must have a high school education, complete a two-year educational and clinical program, and complete a preceptorship of at least 400 hours with a supervising dentist.

In 2017 the Legislature authorized DHAT services in Washington under the following conditions:

- the person providing services is a DHAT certified by a CHAP or a federally recognized Indian tribe that has adopted certification standards that meet or exceed those of a CHAP;
- services are rendered within the boundaries of a tribal reservation and are operated by an Indian health program;
- services are provided within the scope of practice set by the CHAP or tribe and pursuant to any written orders from a supervising dentist; and
- when a person is working within the scope and direction of a certified DHAT training program.

Dental health aide therapist services are exempted from licensing requirements for other dental professions. The Health Care Authority was directed to coordinate with the Centers for Medicare and Medicaid services to provide that DHAT services are eligible for federal funding of up to 100 percent.

#### **Summary of Engrossed Substitute Bill:**

##### License Requirements.

A person may not practice dental therapy or represent himself or herself as a dental therapist without being licensed by the Department of Health (DOH). The DOH must issue a license to practice as a dental therapist to any applicant who:

- successfully completes a dental therapist program:
  - that is accredited or has received initial accreditation by the Commission on Dental Accreditation (CODA); or
  - that is not accredited by CODA, if the applicant successfully completed the dental therapy program before September 31, 2022, and the Dental Hygiene Quality Assurance Commission (Dental Commission) determines the program is substantially equivalent to CODA standards;
- for applicants who attended a program that is not accredited, completes a 400-hour preceptorship under the close supervision of a dentist;
- passes an examination approved by the Dental Commission; and
- pays applicable fees.

When considering and approving the exam required for licensure, the Dental Commission must consult with tribes that license dental health aide therapists and with dental therapy education programs in Washington. The Secretary of Health (Secretary), in consultation with the Dental Commission, may adopt rules to implement these requirements. The DOH must establish continuing education requirements for license renewal in rule.

Applicants holding a valid license and engaged in current practice in another state may be granted a license without examination, if the Secretary determines the other state's licensing standards are substantially equivalent.

#### Limited License.

The DOH must issue a limited license to any applicant who:

- holds a valid license, certification, or recertification in another state, Canadian province, or has been certified or licensed by a federal or tribal governing board in the previous two years that allows a substantially equivalent scope of practice;
- is engaged in active practice in another state, Canadian province, or tribe;
- has graduated from:
  - a CODA accredited dental therapy school; or
  - a dental therapy education program that the Dental Commission determines is substantially equivalent to an accredited education program, if the applicant graduated before September 30, 2022;
- demonstrates knowledge of Washington dental therapy laws; and
- pays required fees.

A person practicing with a limited license may perform only the procedures that the person was licensed or certified to practice in the jurisdiction they held an active license. A person who demonstrates competency in the scope of practice may apply for licensure as a dental therapist. The term of a limited license is the same term as an initial limited dental hygiene license, which is 18 months. The DOH may adopt rules to implement and administer the

limited license.

### Scope of Practice.

A dental therapist may perform the following services and procedures under supervision of a licensed dentist to the extent authorized by the supervising dentist:

- oral health instruction and disease prevention education, including nutritional counseling and dietary analysis;
- comprehensive charting of the oral cavity;
- making radiographs;
- mechanical polishing;
- prophylaxis;
- periodontal scaling and root planing;
- application of topical preventative or prophylactic agents, including fluoride varnishes and pit and fissure sealants;
- pulp vitality testing;
- application of desensitizing medication or resin;
- fabrication of athletic mouth guards and soft occlusal guards;
- placement of temporary restorations;
- tissue conditioning and soft reline;
- atraumatic restorative therapy and interim restorative therapy;
- dressing changes;
- administration of local anesthetic and nitrous oxide;
- emergency palliative treatment of dental pain limited to authorized procedures;
- the placement and removal of space maintainers;
- cavity preparation;
- restoration of primary and permanent teeth;
- placement of temporary crowns;
- preparation and placement of preformed crowns for adults;
- indirect and direct pulp capping on primary and permanent teeth;
- stabilization of reimplanted teeth;
- extractions of primary teeth;
- suture removal;
- brush biopsies;
- minor adjustments and repairs on removable prostheses;
- recementing of permanent crowns;
- oral evaluation and assessment of dental disease and the formulation of an individualized treatment plan. When possible, a dental therapist must collaborate with the supervising dentist to formulate a patient's individualized treatment plan;
- identification of oral and systemic conditions requiring evaluation and treatment by a dentist, physician, or other health care provider, and management of referrals;
- the supervision of expanded function dental auxiliaries, dental assistants, and dental hygienists. A dental therapist may supervise no more than a total of three expanded function dental auxiliaries, dental assistants, and dental hygienists at any one time in any one practice setting. A dental therapist may not supervise an expanded function

- dental auxiliary, dental assistant, or dental hygienist with respect to tasks that the dental therapist is not authorized to perform;
- nonsurgical extractions of erupted permanent teeth under limited conditions; and
  - the dispensation and administration of the following drugs: non-narcotic analgesics, anti-inflammatories, preventive agents, and antibiotics. The dental therapist may dispense sample drugs, but may not dispense or administer narcotic drugs. A dental therapist does not have the authority to prescribe drugs.

A dental therapist may only practice in federally qualified health centers (FQHCs), tribal FQHCs, and FQHC lookalikes.

#### Practice Plan Contract.

A dental therapist may only practice under the supervision of a dentist licensed in Washington or exempt from licensure under the Indian Health Care Improvement Act and pursuant to a written practice plan contract (contract) with a supervising dentist. In circumstances authorized by the supervising dentist in the contract, a dental therapist may provide services under off-site supervision, which is supervision that does not require the dentist to be personally on-site when services are provided or to previously examine or diagnose the patient. The contract must be signed and maintained by both the contracting dentist and the dental therapist and must specify:

- the level of supervision required and circumstances when the prior knowledge or consent of the supervising dentist is required;
- practice settings;
- limitations on the services or procedures that may be provided;
- age and procedure-specific practice protocols;
- procedures for creating and maintaining dental records;
- a plan to manage medical emergencies;
- a quality assurance plan;
- protocols for the administering and dispensing of medications;
- criteria for serving patients with specific medical conditions or complex medical histories; and
- protocols for situations in which the needs of the patient exceed the dental therapist's scope of practice or capabilities.

The supervising dentist must accept responsibility for all services and procedures authorized and provided by the dental therapist. A supervising dentist that is licensed in Washington who knowingly permits a dental therapist to provide a service or procedure not authorized in the contract, and any dental therapist who provides a service or procedure that is not authorized, commits unprofessional conduct. A supervising dentist may not supervise more than five dental therapists at any one time. A supervising dentist must:

- make arrangements for the provision of advanced procedures and services needed by the patient or any treatment that exceeds the dental therapist's scope of practice or capabilities; and
- ensure that he or she, or another dentist, is available for timely communication during

treatment.

A dental therapist may only perform the services authorized by the supervising dentist and contract, and must maintain an appropriate level of contact with the supervising dentist. A dental therapist must submit a signed copy of the contract to the Secretary at the time of licensure renewal and must submit any revisions. A dental therapist must obtain liability insurance with coverage equivalent to that of the supervising dentist.

A dentist providing services at a FQHC is not required to enter a practice plan contract and may not face retaliation or default on a loan repayment contract if the dentist refuses to enter into a practice plan contract or supervise a dental therapist.

Other Provisions.

The Dental Commission membership is increased to 21 members, adding four licensed dental therapists. The Dental Commission is established as the disciplining authority for dental therapists for the purposes of the Uniform Disciplinary Act.

For purposes of the legend drug chapter, dental therapists are added to the definition of practitioner, to the extent authorized in the dental therapy chapter.

A dental therapist must complete a one-time training in suicide assessment, treatment, and management.

A dental assistant, an expanded function dental auxiliary, and a dental hygienist may perform services under the supervision of a dental therapist. This act creates a new chapter in Title 18 RCW. The DOH must adopt any rules necessary to implement this act.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on March 6, 2023.

**Effective Date:** The bill contains multiple effective dates. Please see the bill.

**Staff Summary of Public Testimony (Health Care & Wellness):**

(In support) This bill is a small step to recognize that the state needs more dental providers. This bill is a scaled back from previous versions and is a smaller step to see if it can provide more access.

Everyone deserves a healthy smile no matter their race, where they live, or what dental insurance they have. However, that is not the reality. Many people have stories about the inability to access dental care. Dental therapy adds a member to the care team that can handle routine procedures and it has been found to improve outcomes and increase access to care. Oregon and Colorado have recently passed dental therapy without opposition from

dentists. The experience in other jurisdictions has continually found that dental therapists provide safe and quality care.

Dental care is key to being able to eat healthy foods that allow everyone to stay healthy. Those who do not have access to dental care, particularly as a child, can have dental problems throughout life. Tooth decay is the most common childhood disease despite being completely preventable. Individuals who are low income, people of color, and non-English speakers have more cavities and more tooth decay. The current narrative around dental therapy is that it would create two tiers of care, but we already have two tiers of care in Washington, and it is not based on training, but on access. The question is who can access care and who cannot. In 2021 less than 20 percent of adults with Apple Health saw a dentist.

The expansion to allow dental therapy can resolve some of these shortages and gaps, increasing access to dental care. Dental therapists help dentists focus on more complex procedures and work at the top of their scope of practice. Dental therapists help address the gaps, diversify the dental workforce, and benefit all Washingtonians.

(Opposed) Dental therapy has been available in Minnesota for 13 years and it was not a silver bullet there and has not solved the access issue. The scope of practice in this bill includes procedures that some dentists would not perform themselves and would refer to a specialist. Simple procedures can become difficult due to unforeseen circumstances. Some of the procedures that dental therapists are authorized to perform are difficult, and just because a dental therapist is authorized to perform the procedures, it does not mean it will be more accessible.

The contract required in the bill is not well defined. There is no requirement to address any unmet needs of a patient that a dental therapist cannot handle. There is an ethical requirement to treat a patient once you have given them an exam, but dental therapists would then need to tell patients that they can only take care of the person's simple issues.

A patient with complex health issues should not be treated by someone with only two to three years of training after high school. Given the choice, how many people would choose the provider with less training? Patients in areas served by dental therapists have privately shared that they would rather see a dental student for care than a dental therapist. This is not a solution for Washington.

(Other) A tribe in Washington is grateful for the government-to-government partnership and the historic enactment of the 2017 dental therapist legislation recognizing inherent tribal sovereignty to license dental therapists. Dental therapists have broken the cycle of poor dental care provided by part-time traveling dentists that worked out of a broken down trailer. Tribes in Washington currently use dental therapy and one tribe has found that wait times were reduced from two months to one to two weeks. There has also been an increased focus on prevention and emergency care and outside referrals have decreased.



Dental therapists bridge the gap and address recruitment challenges.

**Staff Summary of Public Testimony (Appropriations):**

(In support) Dental healthcare is important, and this bill takes significant steps to increasing care by providing another option on a dental team for routine procedures. There are currently large barriers to getting sufficient dental services and care. Dental therapists have a positive impact on communities and allow for resources to be stretched further, which improves access to care. This bill will also reduce barriers to training for the workforce. Dental therapists are increasingly used in other states.

(Opposed) The conversation around dental therapists is not new, and is a work in progress. Some of the procedures covered under the bill are concerning, and many dentists would not perform them. The workforce issues in dental care are real, and there is interest in continuing this conversation.

**Persons Testifying (Health Care & Wellness):** (In support) Representative Marcus Riccelli, prime sponsor; Sarah Vander Beek, NeighborCare; Andrew Guillen, Seattle Indian Health Board; Sarah Chagnon, Swinomish Indian Tribal Community; Stephan Blanford, Children's Alliance; Jim Sabol; Marcy Bowers, Statewide Poverty Action Network; Miranda Davis, Northwest Portland Area Indian Health Board; and Yvonne Jacobs.

(Opposed) Trent House, Mark Koday, Aimi Mituwani, Brittany Dean, and Amy Winston, Washington State Dental Association.

(Other) Brian Wilbur, Swinomish Indian Tribal Community.

**Persons Testifying (Appropriations):** (In support) Representative Marcus Riccelli, prime sponsor; Marcy Bowers, Statewide Poverty Action Network; and Kate White Tudor, Washington Association for Community Health.

(Opposed) Trent House, Washington State Dental Association.

**Persons Signed In To Testify But Not Testifying (Health Care & Wellness):** None.

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.