

SENATE BILL No. 1069

September 8, 2016, Introduced by Senators MACGREGOR, SHIRKEY, ROBERTSON, KNEZEK, MARLEAU and HORN and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 16625 (MCL 333.16625), as amended by 2005 PA
161.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16625. (1) The board may promulgate rules to prohibit or
2 otherwise restrict the assignment of procedures to a dental
3 hygienist or a dental assistant if the board determines that the
4 assignment constitutes or may constitute a danger to the health,
5 safety, or welfare of the patient or the public.

6 (2) Notwithstanding section 16601(1)(f) or the rules
7 promulgated under subsection (1), a dental hygienist may perform
8 dental hygiene services under the supervision of a dentist as part
9 of a program for dentally underserved populations in this state
10 conducted by a local, state, or federal grantee health agency for

patients who are not assigned by a dentist **AND DO NOT HAVE A DENTAL HOME**. The director of ~~community~~**THE DEPARTMENT OF** health **AND HUMAN SERVICES** shall designate a person as a grantee health agency for a 2-year period if the person applies to the department of ~~community~~ health **AND HUMAN SERVICES** on a form provided by the department of ~~community~~ health and **HUMAN SERVICES AND** meets all~~EITHER~~ of the following requirements:

(A) MEETS ALL OF THE FOLLOWING:

(i) ~~(a)~~—Is a public or nonprofit entity, or a school or nursing home, that administers a program of dental care to a dentally underserved population.

(ii) ~~(b)~~—Employs or contracts with at least 1 dentist or 1 dental hygienist.

(iii) ~~(c)~~—Submits a program overview indicating the approximate population to be served, the method by which the service is to be provided, the procedures for program oversight and direction, and the name and license number of the dentist and dental hygienist, if applicable, who are performing services under the program.

(B) IS A DENTIST.

(3) Within 10 business days after the department **OF HEALTH AND HUMAN SERVICES** approves an application and designates a grantee health agency under subsection (2), the department **OF HEALTH AND HUMAN SERVICES** shall notify the board of the designation in writing or make the information electronically available.

(4) The director of ~~community~~**THE DEPARTMENT OF** health **AND HUMAN SERVICES** may appoint an advisory committee to assist the

1 director of ~~community~~**THE DEPARTMENT OF** health **AND HUMAN SERVICES**
2 in designating grantee health agencies under subsection (2). If the
3 director of ~~community~~**THE DEPARTMENT OF** health **AND HUMAN SERVICES**
4 does appoint an advisory committee under this subsection, the
5 director of ~~community~~**THE DEPARTMENT OF** health **AND HUMAN SERVICES**
6 shall include on the advisory committee, at a minimum, a
7 representative from the Michigan ~~dental hygienist association~~
8 **DENTAL HYGIENIST ASSOCIATION** or its successor organization and a
9 representative from the Michigan ~~dental association~~**DENTAL**
10 **ASSOCIATION** or its successor organization.

11 (5) IF A GRANTEE HEALTH AGENCY DESIGNATED UNDER SUBSECTION (2)
12 IS A DENTIST, THE GRANTEE HEALTH AGENCY SHALL COMPLY WITH BOTH OF
13 THE FOLLOWING:

14 (A) ACCEPT A REFERRAL OF A PATIENT WHO RECEIVES DENTAL HYGIENE
15 SERVICES FROM A DENTAL HYGIENIST UNDER SUBSECTION (2).

16 (B) IF THE DENTAL HYGIENE SERVICES WILL BE PERFORMED AT A
17 LOCATION THAT IS NOT THE PRIVATE PRACTICE OFFICE OF THE DENTIST,
18 ENTER INTO A MEMORANDUM OF AGREEMENT WITH A SITE OPERATOR WHERE THE
19 DENTAL HYGIENE SERVICES WILL BE PERFORMED.

20 (6) IF A GRANTEE HEALTH AGENCY DESIGNATED UNDER SUBSECTION (2)
21 IS A DENTIST AND A DENTAL HYGIENIST IS PERFORMING DENTAL HYGIENE
22 SERVICES UNDER SUBSECTION (2) FOR THE GRANTEE HEALTH AGENCY, THE
23 DENTAL HYGIENIST SHALL COMPLY WITH BOTH OF THE FOLLOWING:

24 (A) MAINTAIN GENERAL LIABILITY INSURANCE COVERING THE SERVICES
25 PROVIDED BY THE DENTAL HYGIENIST THAT IS ISSUED BY AN INSURANCE
26 CARRIER THAT IS AUTHORIZED TO DO BUSINESS IN THIS STATE.

27 (B) PERFORM DENTAL HYGIENE SERVICES FOR A DENTALLY UNDERSERVED

1 POPULATION.

2 (7) SUBJECT TO THIS SUBSECTION, A DENTIST WHO SUPERVISES A
3 DENTAL HYGIENIST WHO IS PERFORMING DENTAL HYGIENE SERVICES UNDER
4 SUBSECTION (2) IS NOT LIABLE IN A CIVIL ACTION FOR PERSONAL INJURY
5 OR DEATH PROXIMATELY CAUSED BY THE PROFESSIONAL NEGLIGENCE OR
6 MALPRACTICE OF THE DENTAL HYGIENIST WHO IS PERFORMING THE DENTAL
7 HYGIENE SERVICES. THIS SUBSECTION DOES NOT APPLY IF THE CONDUCT OF
8 THE DENTIST IN SUPERVISING THE DENTAL HYGIENIST IS GROSS
9 NEGLIGENCE.

10 (8) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1), THE
11 DEPARTMENT OF HEALTH AND HUMAN SERVICES MAY PROMULGATE RULES TO
12 IMPLEMENT SUBSECTIONS (2) TO (5).

13 (9) ~~(5)~~As used in this section:

14 (A) "DENTAL HOME" MEANS THAT TERM AS DEFINED IN SECTION 21601.

15 (B) "DENTALLY UNDERSERVED POPULATION" MEANS A DENTAL HEALTH
16 PROFESSIONAL SHORTAGE AREA, AS DETERMINED BY THE UNITED STATES
17 DEPARTMENT OF HEALTH AND HUMAN SERVICES.

18 (C) "GROSS NEGLIGENCE" MEANS CONDUCT SO RECKLESS AS TO
19 DEMONSTRATE A SUBSTANTIAL LACK OF CONCERN FOR WHETHER AN INJURY
20 RESULTS.

21 (D) "MEMORANDUM OF AGREEMENT" MEANS WRITTEN DOCUMENTATION OF
22 AN AGREEMENT BETWEEN PARTIES TO WORK TOGETHER COOPERATIVELY ON AN
23 AGREED-UPON PROJECT OR MEET AN AGREED-UPON OBJECTIVE. THE PURPOSE
24 OF A MEMORANDUM OF AGREEMENT IS TO HAVE A WRITTEN UNDERSTANDING OF
25 THE AGREEMENT BETWEEN THE PARTIES. A MEMORANDUM OF AGREEMENT SERVES
26 AS A LEGAL DOCUMENT THAT IS BINDING AND HOLDS THE PARTIES
27 RESPONSIBLE TO THEIR COMMITMENT ALONG WITH DESCRIBING THE TERMS AND

1 DETAILS OF THE COOPERATIVE AGREEMENT. A MEMORANDUM OF AGREEMENT MAY
2 BE USED BETWEEN AGENCIES, THE PUBLIC, THE FEDERAL OR STATE
3 GOVERNMENT, COMMUNITIES, AND INDIVIDUALS.

4 (E) ~~(a)~~—"Nursing home" means that term as defined under
5 section 20109.

6 (F) ~~(b)~~—"School" means a public or private elementary or
7 secondary institution of learning for any grade from kindergarten
8 to GRADE 12.

9 (G) "SITE OPERATOR" MEANS AN OWNER, OR THE OWNER'S DESIGNEE,
10 OF A LOCATION THAT IS NOT THE PRIVATE PRACTICE OFFICE OF THE
11 DENTIST.

12 (H) ~~(c)~~—"Supervision" means the overseeing of or participation
13 in the work of any other individual by a health professional
14 licensed under this article in circumstances in which 1 or more of
15 the following exist:

16 (i) The continuous availability of direct communication in
17 person or by radio, telephone, or telecommunication between the
18 supervised individual and a licensed health professional.

19 (ii) The availability of a licensed health professional on a
20 regularly scheduled basis to review the practice of the supervised
21 individual, to provide consultation to the supervised individual,
22 to review records, and to further educate the supervised individual
23 in the performance of the individual's functions.

24 (iii) The provision by the licensed supervising health
25 professional of predetermined procedures and drug protocol.

26 Enacting section 1. This amendatory act takes effect 90 days
27 after the date it is enacted into law.