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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **1226**

March 2, 2009

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The bill was read for the first time and referred to the Committee on Health Care and Human Services Policy and Oversight

1.1 A bill for an act
1.2 relating to health occupations; establishing licensure and practice limitations for
1.3 an oral health practitioner; establishing fees; requiring rulemaking; amending
1.4 Minnesota Statutes 2008, sections 150A.01, by adding a subdivision; 150A.05,
1.5 subdivision 2, by adding a subdivision; 150A.06, subdivisions 2d, 5, 6, by
1.6 adding subdivisions; 150A.08, subdivisions 1, 3a, 5; 150A.09, subdivisions 1, 3;
1.7 150A.091, subdivisions 2, 3, 5, 8, 10; 150A.10, subdivisions 2, 3, 4; 150A.11,
1.8 subdivision 4; 150A.12; 150A.21, subdivisions 1, 4; 151.01, subdivision 23;
1.9 151.37, subdivision 2; proposing coding for new law in Minnesota Statutes,
1.10 chapter 150A; repealing Minnesota Statutes 2008, section 150A.061.

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

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

1.14 Subd. 6b. **Oral health practitioner.** "Oral health practitioner" means a person
1.15 licensed under this chapter to perform the services authorized under section 150A.105 or
1.16 any other services authorized under this chapter.

1.17 Sec. 2. Minnesota Statutes 2008, section 150A.05, is amended by adding a subdivision
1.18 to read:

1.19 Subd. 1b. **Practice of oral health practitioners.** A person shall be deemed to be
1.20 practicing as an oral health practitioner within the meaning of this chapter who:

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

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

2.1 (3) provides oral health care services, including preventive, primary diagnostic,
2.2 educational, palliative, therapeutic, and restorative services as authorized under section
2.3 150A.105 and within the context of a collaborative management agreement.

2.4 Sec. 3. Minnesota Statutes 2008, section 150A.05, subdivision 2, is amended to read:

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

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

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

2.10 (2) the practice of dentistry, dental hygiene, or dental assisting by undergraduate
2.11 dental students, oral health practitioner students, dental hygiene students, and dental
2.12 assisting students of the University of Minnesota, schools of dental hygiene, schools
2.13 with an oral health practitioner education program accredited under section 150A.06, or
2.14 schools of dental assisting approved by the board, when acting under the direction and
2.15 supervision of a licensed dentist, a licensed oral health practitioner, or a licensed dental
2.16 hygienist acting as an instructor;

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

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

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

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

2.34 (7) the service, other than service performed directly upon the person of a patient, of
2.35 constructing, altering, repairing, or duplicating any denture, partial denture, crown, bridge,

3.1 splint, orthodontic, prosthetic, or other dental appliance, when performed according to
3.2 a written work order from a licensed dentist or a licensed oral health practitioner in
3.3 accordance with section 150A.10, subdivision 3.

3.4 Sec. 4. Minnesota Statutes 2008, section 150A.06, is amended by adding a subdivision
3.5 to read:

3.6 Subd. 1d. **Oral health practitioners.** A person, of good moral character who has
3.7 graduated from an oral health practitioner education program that has been approved
3.8 by the board or accredited by the Commission on Dental Accreditation or another
3.9 board-approved national accreditation organization, may apply for licensure.

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

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

3.24 Subd. 1e. **Resident dental providers.** A person who is a graduate of an
3.25 undergraduate program and is an enrolled graduate student of an advanced dental
3.26 education program shall obtain from the board a license to practice as a resident dental
3.27 hygienist or oral health practitioner. The license must be designated "resident dental
3.28 provider license" and authorizes the licensee to practice only under the supervision of a
3.29 licensed dentist or licensed oral health practitioner. A resident dental provider license
3.30 must be renewed annually according to rules adopted by the board. An applicant for a
3.31 resident dental provider license shall pay a nonrefundable fee set by the board for issuing
3.32 and renewing the license. The requirements of sections 150A.01 to 150A.21 apply to
3.33 resident dental providers except as specified in rules adopted by the board. A resident
3.34 dental provider license does not qualify a person for licensure under subdivision 1d or 2.

4.1 Sec. 6. Minnesota Statutes 2008, section 150A.06, subdivision 2d, is amended to read:

4.2 Subd. 2d. **Continuing education and professional development waiver.** (a)

4.3 The board shall grant a waiver to the continuing education requirements under this
4.4 chapter for a licensed dentist, licensed oral health practitioner, licensed dental hygienist,
4.5 or registered dental assistant who documents to the satisfaction of the board that the
4.6 dentist, oral health practitioner, dental hygienist, or registered dental assistant has retired
4.7 from active practice in the state and limits the provision of dental care services to those
4.8 offered without compensation in a public health, community, or tribal clinic or a nonprofit
4.9 organization that provides services to the indigent or to recipients of medical assistance,
4.10 general assistance medical care, or MinnesotaCare programs.

4.11 (b) The board may require written documentation from the volunteer and retired
4.12 dentist, oral health practitioner, dental hygienist, or registered dental assistant prior
4.13 to granting this waiver.

4.14 (c) The board shall require the volunteer and retired dentist, oral health practitioner,
4.15 dental hygienist, or registered dental assistant to meet the following requirements:

4.16 (1) a licensee or registrant seeking a waiver under this subdivision must complete
4.17 and document at least five hours of approved courses in infection control, medical
4.18 emergencies, and medical management for the continuing education cycle; and

4.19 (2) provide documentation of certification in advanced or basic cardiac life support
4.20 recognized by the American Heart Association, the American Red Cross, or an equivalent
4.21 entity.

4.22 Sec. 7. Minnesota Statutes 2008, section 150A.06, subdivision 5, is amended to read:

4.23 Subd. 5. **Fraud in securing licenses or registrations.** Every person implicated
4.24 in employing fraud or deception in applying for or securing a license or registration to
4.25 practice dentistry, dental hygiene, or dental assisting, or as an oral health practitioner or in
4.26 annually renewing a license or registration under sections 150A.01 to 150A.12 is guilty
4.27 of a gross misdemeanor.

4.28 Sec. 8. Minnesota Statutes 2008, section 150A.06, subdivision 6, is amended to read:

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

5.1 Sec. 9. Minnesota Statutes 2008, section 150A.08, subdivision 1, is amended to read:

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

5.6 (1) fraud or deception in connection with the practice of dentistry or the securing of
5.7 a license or registration certificate;

5.8 (2) conviction, including a finding or verdict of guilt, an admission of guilt, or a no
5.9 contest plea, in any court of a felony or gross misdemeanor reasonably related to the
5.10 practice of dentistry as evidenced by a certified copy of the conviction;

5.11 (3) conviction, including a finding or verdict of guilt, an admission of guilt, or a
5.12 no contest plea, in any court of an offense involving moral turpitude as evidenced by a
5.13 certified copy of the conviction;

5.14 (4) habitual overindulgence in the use of intoxicating liquors;

5.15 (5) improper or unauthorized prescription, dispensing, administering, or personal
5.16 or other use of any legend drug as defined in chapter 151, of any chemical as defined in
5.17 chapter 151, or of any controlled substance as defined in chapter 152;

5.18 (6) conduct unbecoming a person licensed to practice dentistry or dental hygiene
5.19 or as an oral health practitioner or registered as a dental assistant, or conduct contrary to
5.20 the best interest of the public, as such conduct is defined by the rules of the board;

5.21 (7) gross immorality;

5.22 (8) any physical, mental, emotional, or other disability which adversely affects a
5.23 dentist's, oral health practitioner's, dental hygienist's, or registered dental assistant's ability
5.24 to perform the service for which the person is licensed or registered;

5.25 (9) revocation or suspension of a license, registration, or equivalent authority to
5.26 practice, or other disciplinary action or denial of a license or registration application taken
5.27 by a licensing, registering, or credentialing authority of another state, territory, or country
5.28 as evidenced by a certified copy of the licensing authority's order, if the disciplinary action
5.29 or application denial was based on facts that would provide a basis for disciplinary action
5.30 under this chapter and if the action was taken only after affording the credentialed person
5.31 or applicant notice and opportunity to refute the allegations or pursuant to stipulation
5.32 or other agreement;

5.33 (10) failure to maintain adequate safety and sanitary conditions for a dental office in
5.34 accordance with the standards established by the rules of the board;

5.35 (11) employing, assisting, or enabling in any manner an unlicensed person to
5.36 practice dentistry;

6.1 (12) failure or refusal to attend, testify, and produce records as directed by the board
6.2 under subdivision 7;

6.3 (13) violation of, or failure to comply with, any other provisions of sections 150A.01
6.4 to 150A.12, the rules of the Board of Dentistry, or any disciplinary order issued by the
6.5 board, sections 144.291 to 144.298 or 595.02, subdivision 1, paragraph (d), or for any
6.6 other just cause related to the practice of dentistry. Suspension, revocation, modification
6.7 or limitation of any license shall not be based upon any judgment as to therapeutic or
6.8 monetary value of any individual drug prescribed or any individual treatment rendered,
6.9 but only upon a repeated pattern of conduct;

6.10 (14) knowingly providing false or misleading information that is directly related
6.11 to the care of that patient unless done for an accepted therapeutic purpose such as the
6.12 administration of a placebo; or

6.13 (15) aiding suicide or aiding attempted suicide in violation of section 609.215 as
6.14 established by any of the following:

6.15 (i) a copy of the record of criminal conviction or plea of guilty for a felony in
6.16 violation of section 609.215, subdivision 1 or 2;

6.17 (ii) a copy of the record of a judgment of contempt of court for violating an
6.18 injunction issued under section 609.215, subdivision 4;

6.19 (iii) a copy of the record of a judgment assessing damages under section 609.215,
6.20 subdivision 5; or

6.21 (iv) a finding by the board that the person violated section 609.215, subdivision
6.22 1 or 2. The board shall investigate any complaint of a violation of section 609.215,
6.23 subdivision 1 or 2.

6.24 Sec. 10. Minnesota Statutes 2008, section 150A.08, subdivision 3a, is amended to read:

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

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

7.3 (1) order the dentist, oral health practitioner, dental hygienist, or dental assistant to
7.4 provide unremunerated service;

7.5 (2) censure or reprimand the dentist, oral health practitioner, dental hygienist, or
7.6 dental assistant; or

7.7 (3) any other action as allowed by law and justified by the facts of the case.

7.8 Sec. 11. Minnesota Statutes 2008, section 150A.08, subdivision 5, is amended to read:

7.9 Subd. 5. **Medical examinations.** If the board has probable cause to believe
7.10 that a dentist, oral health practitioner, dental hygienist, registered dental assistant, or
7.11 applicant engages in acts described in subdivision 1, clause (4) or (5), or has a condition
7.12 described in subdivision 1, clause (8), it shall direct the dentist, oral health practitioner,
7.13 dental hygienist, assistant, or applicant to submit to a mental or physical examination or
7.14 a chemical dependency assessment. For the purpose of this subdivision, every dentist,
7.15 oral health practitioner, hygienist, or assistant licensed or registered under this chapter
7.16 or person submitting an application for a license or registration is deemed to have given
7.17 consent to submit to a mental or physical examination when directed in writing by the
7.18 board and to have waived all objections in any proceeding under this section to the
7.19 admissibility of the examining physician's testimony or examination reports on the ground
7.20 that they constitute a privileged communication. Failure to submit to an examination
7.21 without just cause may result in an application being denied or a default and final order
7.22 being entered without the taking of testimony or presentation of evidence, other than
7.23 evidence which may be submitted by affidavit, that the licensee, registrant, or applicant
7.24 did not submit to the examination. A dentist, oral health practitioner, dental hygienist,
7.25 registered dental assistant, or applicant affected under this section shall at reasonable
7.26 intervals be afforded an opportunity to demonstrate ability to start or resume the competent
7.27 practice of dentistry or perform the duties of a an oral health practitioner, dental hygienist,
7.28 or registered dental assistant with reasonable skill and safety to patients. In any proceeding
7.29 under this subdivision, neither the record of proceedings nor the orders entered by the
7.30 board is admissible, is subject to subpoena, or may be used against the dentist, oral health
7.31 practitioner, dental hygienist, registered dental assistant, or applicant in any proceeding
7.32 not commenced by the board. Information obtained under this subdivision shall be
7.33 classified as private pursuant to the Minnesota Government Data Practices Act.

7.34 Sec. 12. Minnesota Statutes 2008, section 150A.09, subdivision 1, is amended to read:

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

8.9 Sec. 13. Minnesota Statutes 2008, section 150A.09, subdivision 3, is amended to read:

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

8.17 Sec. 14. Minnesota Statutes 2008, section 150A.091, subdivision 2, is amended to read:

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

- 8.21 (1) dentist, \$140;
8.22 (2) limited faculty dentist, \$140;
8.23 (3) resident dentist, \$55;
8.24 (4) oral health practitioner, \$100;
8.25 (5) dental hygienist, \$55;
8.26 ~~(5)~~ (6) registered dental assistant, \$35; and
8.27 ~~(6)~~ (7) dental assistant with a limited registration, \$15.

8.28 Sec. 15. Minnesota Statutes 2008, section 150A.091, subdivision 3, is amended to read:

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

- 9.1 (1) dentist, \$14 times the number of months of the initial term;
- 9.2 (2) oral health practitioner, \$10 times the number of months of initial term;
- 9.3 (3) dental hygienist, \$5 times the number of months of the initial term;
- 9.4 ~~(3)~~ (4) registered dental assistant, \$3 times the number of months of initial term; and
- 9.5 ~~(4)~~ (5) dental assistant with a limited registration, \$1 times the number of months
- 9.6 of the initial term.

9.7 Sec. 16. Minnesota Statutes 2008, section 150A.091, subdivision 5, is amended to read:

9.8 Subd. 5. **Biennial license or registration fees.** Each of the following licensees or

9.9 registrants shall submit with a biennial license or registration renewal application a fee as

9.10 established by the board, not to exceed the following amounts:

- 9.11 (1) dentist, \$336;
- 9.12 (2) oral health practitioner, \$240;
- 9.13 (3) dental hygienist, \$118;
- 9.14 ~~(3)~~ (4) registered dental assistant, \$80; and
- 9.15 ~~(4)~~ (5) dental assistant with a limited registration, \$24.

9.16 Sec. 17. Minnesota Statutes 2008, section 150A.091, subdivision 8, is amended to read:

9.17 Subd. 8. **Duplicate license or registration fee.** Each licensee or registrant shall

9.18 submit, with a request for issuance of a duplicate of the original license or registration, or

9.19 of an annual or biennial renewal of it, a fee in the following amounts:

- 9.20 (1) original dentist, oral health practitioner, or dental hygiene license, \$35; and
- 9.21 (2) initial and renewal registration certificates and license renewal certificates, \$10.

9.22 Sec. 18. Minnesota Statutes 2008, section 150A.091, subdivision 10, is amended to

9.23 read:

9.24 Subd. 10. **Reinstatement fee.** No dentist, oral health practitioner, dental hygienist,

9.25 or registered dental assistant whose license or registration has been suspended or revoked

9.26 may have the license or registration reinstated or a new license or registration issued until

9.27 a fee has been submitted to the board in the following amounts:

- 9.28 (1) dentist, \$140;
- 9.29 (2) oral health practitioner, \$100;
- 9.30 (3) dental hygienist, \$55; and
- 9.31 ~~(3)~~ (4) registered dental assistant, \$35.

9.32 Sec. 19. Minnesota Statutes 2008, section 150A.10, subdivision 2, is amended to read:

10.1 Subd. 2. **Dental assistants.** Every licensed dentist or oral health practitioner who
 10.2 uses the services of any unlicensed person for the purpose of assistance in the practice of
 10.3 dentistry or within the practice of an oral health practitioner shall be responsible for the
 10.4 acts of such unlicensed person while engaged in such assistance. ~~Such~~ The dentist or oral
 10.5 health practitioner shall permit ~~such~~ the unlicensed assistant to perform only those acts
 10.6 which are authorized to be delegated to unlicensed assistants by the Board of Dentistry.
 10.7 ~~Such~~ The acts shall be performed under supervision of a licensed dentist or licensed oral
 10.8 health practitioner. A licensed oral health practitioner shall not supervise more than four
 10.9 registered dental assistants at any one practice setting. The board may permit differing
 10.10 levels of dental assistance based upon recognized educational standards, approved by
 10.11 the board, for the training of dental assistants. The board may also define by rule the
 10.12 scope of practice of registered and nonregistered dental assistants. The board by rule
 10.13 may require continuing education for differing levels of dental assistants, as a condition
 10.14 to their registration or authority to perform their authorized duties. Any licensed dentist
 10.15 or licensed oral health practitioner who ~~shall permit such~~ permits an unlicensed assistant
 10.16 to perform any dental service other than that authorized by the board shall be deemed to
 10.17 be enabling an unlicensed person to practice dentistry, and commission of such an act by
 10.18 ~~such an~~ unlicensed assistant shall constitute a violation of sections 150A.01 to 150A.12.

10.19 Sec. 20. Minnesota Statutes 2008, section 150A.10, subdivision 3, is amended to read:

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

10.33 Sec. 21. Minnesota Statutes 2008, section 150A.10, subdivision 4, is amended to read:

- 11.1 Subd. 4. **Restorative procedures.** (a) Notwithstanding subdivisions 1, 1a, and 2,
11.2 a licensed dental hygienist or a registered dental assistant may perform the following
11.3 restorative procedures:
- 11.4 (1) place, contour, and adjust amalgam restorations;
 - 11.5 (2) place, contour, and adjust glass ionomer;
 - 11.6 (3) adapt and cement stainless steel crowns; and
 - 11.7 (4) place, contour, and adjust class I and class V supragingival composite restorations
11.8 where the margins are entirely within the enamel.
- (b) The restorative procedures described in paragraph (a) may be performed only if:
- 11.10 (1) the licensed dental hygienist or the registered dental assistant has completed a
11.11 board-approved course on the specific procedures;
 - 11.12 (2) the board-approved course includes a component that sufficiently prepares the
11.13 dental hygienist or registered dental assistant to adjust the occlusion on the newly placed
11.14 restoration;
 - 11.15 (3) a licensed dentist or licensed oral health practitioner has authorized the procedure
11.16 to be performed; and
 - 11.17 (4) a licensed dentist or licensed oral health practitioner is available in the clinic
11.18 while the procedure is being performed.
- (c) The dental faculty who teaches the educators of the board-approved courses
11.19 specified in paragraph (b) must have prior experience teaching these procedures in an
11.20 accredited dental education program.
11.21

11.22 Sec. 22. **[150A.105] ORAL HEALTH PRACTITIONER.**

11.23 Subdivision 1. **General.** An oral health practitioner licensed under this chapter
11.24 may practice under the supervision of a Minnesota-licensed dentist pursuant to a written
11.25 collaborative management agreement and the requirements of this chapter.

11.26 Subd. 2. **Limited practice settings.** An oral health practitioner licensed under this
11.27 chapter is limited to primarily practicing in settings that serve low-income, uninsured, and
11.28 underserved patients or are located in a dental health professional shortage area.

11.29 Subd. 3. **Collaborative management agreement.** (a) Prior to performing any of
11.30 the services authorized under this chapter, an oral health practitioner must enter into
11.31 a written collaborative management agreement with a Minnesota-licensed dentist. The
11.32 agreement must include:

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

- 12.1 (2) any limitations on the services that may be provided by the oral health
12.2 practitioner, including the level of supervision required by the collaborating dentist and
12.3 consultation criteria;
- 12.4 (3) age and procedure specific practice protocols, including case selection criteria,
12.5 examination guidelines, and imaging frequency;
- 12.6 (4) a procedure for creating and maintaining dental records for the patients that
12.7 are treated by the oral health practitioner;
- 12.8 (5) a plan to manage medical emergencies in each practice setting where the oral
12.9 health practitioner provides care;
- 12.10 (6) a quality assurance plan for monitoring care provided by the oral health
12.11 practitioner, including patient care review, referral follow-up, and a quality assurance
12.12 chart review;
- 12.13 (7) protocols for prescribing, administering, and dispensing medications authorized
12.14 under subdivision 5, including the specific conditions and circumstances under which
12.15 these medications are to be prescribed, dispensed, and administered;
- 12.16 (8) criteria relating to the provision of care to patients with specific medical
12.17 conditions or complex medication histories, including any requirements for consultation
12.18 prior to the initiation of care;
- 12.19 (9) criteria for the supervision of allied dental personnel;
- 12.20 (10) a plan for the provision of clinical referrals in situations that are beyond the
12.21 diagnostic or treatment capabilities of the oral health practitioner; and
- 12.22 (11) a description of any financial arrangement, if applicable, between the oral
12.23 health practitioner and collaborating dentist.
- 12.24 (b) A collaborating dentist must be licensed and practicing in Minnesota. The
12.25 collaborating dentist shall accept responsibility for all services authorized and performed
12.26 by the oral health practitioner under the collaborative management agreement. Any
12.27 licensed dentist who permits an oral health practitioner to perform a dental service other
12.28 than those authorized under this section or by the board or any oral health practitioner who
12.29 performs unauthorized services shall be in violation sections 150A.01 to 150A.12.
- 12.30 (c) Both the collaborating dentist and the oral health practitioner must maintain
12.31 professional liability coverage. Proof of professional liability coverage shall be submitted
12.32 to the board as part of the collaborative management agreement.
- 12.33 (d) Collaborative management agreements must be signed and maintained by the
12.34 collaborating dentist and the oral health practitioner. Agreements must be reviewed,
12.35 updated, and submitted to the board on an annual basis.

13.1 (e) A collaborating dentist shall accept any patient referred by the oral health
13.2 practitioner or have a referral process for patients that are referred by the oral health
13.3 practitioner.

13.4 (f) A collaborating dentist must conduct periodic oversight reviews of each oral
13.5 health practitioner in which the dentist has entered into a collaborative management
13.6 agreement.

13.7 Subd. 4. **Scope of practice.** (a) A licensed oral health practitioner may perform
13.8 dental services as authorized under this section within the parameters of the collaborative
13.9 management agreement.

13.10 (b) The services a licensed oral health practitioner may perform include preventive,
13.11 primary diagnostic, educational, palliative, therapeutic, and restorative oral health services
13.12 as specified in paragraphs (c) and (d), and within the parameters of the collaborative
13.13 management agreement.

13.14 (c) A licensed oral health practitioner may perform the following services under
13.15 general supervision, unless restricted or prohibited in the collaborative management
13.16 agreement:

13.17 (1) preventive, palliative, diagnostic, and assessment services:

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

13.20 (ii) diagnostic services, including an examination, evaluation, and assessment to
13.21 identify oral disease and conditions;

13.22 (iii) formulation of a diagnosis and individualized treatment plan, including
13.23 preliminary charting of the oral cavity;

13.24 (iv) taking of radiographs;

13.25 (v) prophylaxis;

13.26 (vi) fabrication of athletic mouthguards;

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

13.29 (viii) full-mouth debridement;

13.30 (ix) emergency palliative treatment of dental pain;

13.31 (x) pulp vitality testing;

13.32 (xi) application of desensitizing medication or resin; and

13.33 (xii) space maintainer removal;

13.34 (2) restorative services:

13.35 (i) cavity preparation class I-IV;

13.36 (ii) restoration of primary and permanent teeth class I-IV;

- 14.1 (iii) placement of temporary crowns;
- 14.2 (iv) placement of temporary restorations;
- 14.3 (v) preparation and placement of preformed crowns;
- 14.4 (vi) pulpotomies on primary teeth;
- 14.5 (vii) indirect and direct pulp capping on primary and permanent teeth;
- 14.6 (viii) repair of defective prosthetic appliances;
- 14.7 (ix) recementing of permanent crowns;
- 14.8 (x) administering nitrous oxide inhalation analgesia;
- 14.9 (xi) administering injections of local anesthetic agents;
- 14.10 (xii) periodontal maintenance;
- 14.11 (xiii) scaling and root planing;
- 14.12 (xiv) soft-tissue reline and conditioning;
- 14.13 (xv) atraumatic restorative technique; and
- 14.14 (xvi) opening permanent teeth for pulpal debridement and opening chamber; and
- 14.15 (3) surgical services:
- 14.16 (i) extractions of primary and permanent teeth;
- 14.17 (ii) suture placement and removal;
- 14.18 (iii) dressing change;
- 14.19 (iv) brush biopsies;
- 14.20 (v) tooth reimplantation and stabilization; and
- 14.21 (vi) abscess incision and drainage.
- 14.22 (d) A licensed oral health practitioner may perform the following services under
- 14.23 the indirect supervision, unless restricted or prohibited in the collaborative management
- 14.24 agreement:
- 14.25 (1) placement of space maintainers; and
- 14.26 (2) fabrication of soft-occlusal guards.
- 14.27 (e) For purposes of this section, "general supervision" and "indirect supervision"
- 14.28 have the meanings given in Minnesota Rules, part 3100.0100, subpart 21.
- 14.29 Subd. 5. Prescribing authority. (a) A licensed oral health practitioner may
- 14.30 prescribe, dispense, and administer the following drugs within the parameters of the
- 14.31 collaborative management agreement and within the scope of practice of the oral health
- 14.32 practitioner: analgesics, anti-inflammatories, and antibiotics.
- 14.33 (b) The authority to prescribe, dispense, and administer shall extend only to the
- 14.34 categories of drugs identified in this subdivision, and may be further limited by the
- 14.35 collaborative management agreement.

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

15.4 (d) Notwithstanding paragraph (a), a licensed oral health practitioner is prohibited
15.5 from dispensing, prescribing, or administering a narcotic drug as defined in section
15.6 152.01, subdivision 10.

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

15.11 Subd. 7. **Use of dental allied personnel.** (a) A licensed oral health practitioner
15.12 may supervise registered and unregistered dental assistants to the extent permitted in the
15.13 collaborative management agreement and according to section 150A.10.

15.14 (b) Notwithstanding paragraph (a), a licensed oral health practitioner is limited to
15.15 supervising no more than four registered dental assistants at any one practice setting.

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

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

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

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

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

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

15.29 (5) oral health educational institutions; or

15.30 (6) any other clinic or practice setting, including mobile dental units, in which at
15.31 least 50 percent of the oral health practitioner's total patient base in that clinic or practice
15.32 setting are patients who:

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

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

15.36 (iii) reside in geographically isolated or medically underserved areas; or

16.1 (iv) do not have dental health coverage either through a Minnesota health care
16.2 program or private insurance.

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

16.6 Sec. 23. Minnesota Statutes 2008, section 150A.11, subdivision 4, is amended to read:

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

16.14 Sec. 24. Minnesota Statutes 2008, section 150A.12, is amended to read:

16.15 **150A.12 VIOLATION AND DEFENSES.**

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

16.24 Sec. 25. Minnesota Statutes 2008, section 150A.21, subdivision 1, is amended to read:

16.25 Subdivision 1. **Patient's name and Social Security number.** Every complete
16.26 upper and lower denture and removable dental prosthesis fabricated by a dentist licensed
16.27 under section 150A.06, or fabricated pursuant to the dentist's or oral health practitioner's
16.28 work order, shall be marked with the name and Social Security number of the patient for
16.29 whom the prosthesis is intended. The markings shall be done during fabrication and shall
16.30 be permanent, legible and cosmetically acceptable. The exact location of the markings
16.31 and the methods used to apply or implant them shall be determined by the dentist, oral
16.32 health practitioner, or dental laboratory fabricating the prosthesis. If in the professional

17.1 judgment of the dentist, oral health practitioner, or dental laboratory, this identification is
17.2 not practicable, identification shall be provided as follows:

17.3 (a) The Social Security number of the patient may be omitted if the name of the
17.4 patient is shown;

17.5 (b) The initials of the patient may be shown alone, if use of the name of the patient is
17.6 impracticable;

17.7 (c) The identification marks may be omitted in their entirety if none of the forms of
17.8 identification specified in clauses (a) and (b) are practicable or clinically safe.

17.9 Sec. 26. Minnesota Statutes 2008, section 150A.21, subdivision 4, is amended to read:

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

17.15 Sec. 27. Minnesota Statutes 2008, section 151.01, subdivision 23, is amended to read:

17.16 Subd. 23. **Practitioner.** "Practitioner" means a licensed doctor of medicine, licensed
17.17 doctor of osteopathy duly licensed to practice medicine, licensed doctor of dentistry,
17.18 licensed doctor of optometry, licensed podiatrist, or licensed veterinarian. For purposes
17.19 of sections 151.15, subdivision 4, 151.37, subdivision 2, paragraphs (b), (e), and (f), and
17.20 151.461, "practitioner" also means a physician assistant authorized to prescribe, dispense,
17.21 and administer under chapter 147A, ~~or~~ an advanced practice nurse authorized to prescribe,
17.22 dispense, and administer under section 148.235, or a licensed oral health practitioner
17.23 authorized to prescribe, dispense, and administer under chapter 150A.

17.24 Sec. 28. Minnesota Statutes 2008, section 151.37, subdivision 2, is amended to read:

17.25 Subd. 2. **Prescribing and filing.** (a) A licensed practitioner in the course of
17.26 professional practice only, may prescribe, administer, and dispense a legend drug,
17.27 and may cause the same to be administered by a nurse, a physician assistant, an oral
17.28 health practitioner, or medical student or resident under the practitioner's direction and
17.29 supervision, and may cause a person who is an appropriately certified, registered, or
17.30 licensed health care professional to prescribe, dispense, and administer the same within
17.31 the expressed legal scope of the person's practice as defined in Minnesota Statutes. A
17.32 licensed practitioner may prescribe a legend drug, without reference to a specific patient,
17.33 by directing a nurse, pursuant to section 148.235, subdivisions 8 and 9, an oral health

18.1 practitioner under chapter 150A, a physician assistant, or a medical student or resident to
18.2 adhere to a particular practice guideline or protocol when treating patients whose condition
18.3 falls within such guideline or protocol, and when such guideline or protocol specifies the
18.4 circumstances under which the legend drug is to be prescribed and administered. An
18.5 individual who verbally, electronically, or otherwise transmits a written, oral, or electronic
18.6 order, as an agent of a prescriber, shall not be deemed to have prescribed the legend drug.
18.7 This paragraph applies to a physician assistant only if the physician assistant meets the
18.8 requirements of section 147A.18.

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

18.26 (c) A prescription or drug order for the following drugs is not valid, unless it can be
18.27 established that the prescription or order was based on a documented patient evaluation,
18.28 including an examination, adequate to establish a diagnosis and identify underlying
18.29 conditions and contraindications to treatment:

18.30 (1) controlled substance drugs listed in section 152.02, subdivisions 3 to 5;

18.31 (2) drugs defined by the Board of Pharmacy as controlled substances under section
18.32 152.02, subdivisions 7, 8, and 12;

18.33 (3) muscle relaxants;

18.34 (4) centrally acting analgesics with opioid activity;

18.35 (5) drugs containing butalbital; or

18.36 (6) phosphodiesterase type 5 inhibitors when used to treat erectile dysfunction.

19.1 (d) For the purposes of paragraph (c), the requirement for an examination shall be
19.2 met if an in-person examination has been completed in any of the following circumstances:

19.3 (1) the prescribing practitioner examines the patient at the time the prescription
19.4 or drug order is issued;

19.5 (2) the prescribing practitioner has performed a prior examination of the patient;

19.6 (3) another prescribing practitioner practicing within the same group or clinic as the
19.7 prescribing practitioner has examined the patient;

19.8 (4) a consulting practitioner to whom the prescribing practitioner has referred the
19.9 patient has examined the patient; or

19.10 (5) the referring practitioner has performed an examination in the case of a
19.11 consultant practitioner issuing a prescription or drug order when providing services by
19.12 means of telemedicine.

19.13 (e) Nothing in paragraph (c) or (d) prohibits a licensed practitioner from prescribing
19.14 a drug through the use of a guideline or protocol pursuant to paragraph (a).

19.15 (f) Nothing in this chapter prohibits a licensed practitioner from issuing a
19.16 prescription or dispensing a legend drug in accordance with the Expedited Partner Therapy
19.17 in the Management of Sexually Transmitted Diseases guidance document issued by the
19.18 United States Centers for Disease Control.

19.19 (g) Nothing in paragraph (c) or (d) limits prescription, administration, or dispensing
19.20 of legend drugs through a public health clinic or other distribution mechanism approved
19.21 by the commissioner of health or a board of health in order to prevent, mitigate, or treat
19.22 a pandemic illness, infectious disease outbreak, or intentional or accidental release of a
19.23 biological, chemical, or radiological agent.

19.24 (h) No pharmacist employed by, under contract to, or working for a pharmacy
19.25 licensed under section 151.19, subdivision 1, may dispense a legend drug based on a
19.26 prescription that the pharmacist knows, or would reasonably be expected to know, is not
19.27 valid under paragraph (c).

19.28 (i) No pharmacist employed by, under contract to, or working for a pharmacy
19.29 licensed under section 151.19, subdivision 2, may dispense a legend drug to a resident
19.30 of this state based on a prescription that the pharmacist knows, or would reasonably be
19.31 expected to know, is not valid under paragraph (c).

19.32 **Sec. 29. IMPACT OF ORAL HEALTH PRACTITIONERS.**

19.33 **(a) The Board of Dentistry shall evaluate the impact of the use of oral health**
19.34 **practitioners on the delivery of and access to dental services. The board shall report to the**

20.1 chairs and ranking minority members of the legislative committees with jurisdiction over
20.2 health care by January 15, 2014:

20.3 (1) the number of oral health practitioners annually licensed by the board beginning
20.4 in 2011;

20.5 (2) the settings where licensed oral health practitioners are practicing and the
20.6 populations being served;

20.7 (3) the number of complaints filed against oral health practitioners and the basis
20.8 for each complaint; and

20.9 (4) the number of disciplinary actions taken against oral health practitioners.

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

20.14 (c) The Board of Dentistry, in consultation with the Department of Health, shall
20.15 develop an evaluation process that focuses on assessing the impact of oral health
20.16 practitioners in terms of patient safety, cost effectiveness, and access to dental services.

20.17 The process shall focus on the following outcome measures:

20.18 (1) number of new patients served;

20.19 (2) reduction in waiting times for needed services;

20.20 (3) decreased travel time for patients;

20.21 (4) impact on emergency room usage for dental care; and

20.22 (5) costs to the public health care system.

20.23 **Sec. 30. REPEALER.**

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

150A.061 ORAL HEALTH PRACTITIONER.

Subdivision 1. **Oral health practitioner requirements.** The board shall authorize a person to practice as an oral health practitioner if that person is qualified under this section, works under the supervision of a Minnesota-licensed dentist pursuant to a written collaborative management agreement, is licensed by the board, and practices in compliance with this section and rules adopted by the board. No oral health practitioner shall be authorized to practice prior to January 1, 2011. To be qualified to practice under this section, the person must:

(1) be a graduate of an oral health practitioner education program that is accredited by a national accreditation organization to the extent required under subdivision 2 and approved by the board;

(2) pass a comprehensive, competency-based clinical examination that is approved by the board and administered independently of an institution providing oral health practitioner education; and

(3) satisfy the requirements established in this section and by the board.

Subd. 2. **Education program approval.** If a national accreditation program for midlevel practitioners is established by the Commission on Dental Accreditation or another national accreditation organization, the board shall require that an oral health practitioner be a graduate of an accredited education program.

Subd. 3. **Requirement to practice in underserved areas.** As a condition of being granted authority to practice as an oral health practitioner under this section, the practitioner must agree to practice in settings serving low-income, uninsured, and underserved patients or in a dental health professional shortage area as determined by the commissioner of health.

Subd. 4. **Application of other laws.** An oral health practitioner authorized to practice under this section is not in violation of section 150A.05 relating to the unauthorized practice of dentistry and chapter 151 relating to authority to prescribe, dispense, or administer drugs.

Subd. 5. **Rulemaking.** The Board of Dentistry may adopt rules to implement this section.