

NEVADA STATE BOARD
of
DENTAL EXAMINERS



REGULATION WORKSHOP

THURSDAY, JANUARY 7, 2021

6:00 P.M.

ADDENDUM
PUBLIC COMMENT BOOK

Public Comment:

Antonina Capurro, DMD, MPH, MBA

Steve Sisolak
Governor

Richard Whitley, MS
Director



DEPARTMENT OF
HEALTH AND HUMAN SERVICES
Division of Public and Behavioral Health
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Lisa Sherych
Administrator

Ihsan Azzam, Ph.D., M.D.
Chief Medical Officer

January 5, 2021

Dear Nevada State Board of Dental Examiners,

On December 24th, Chair Parks assigned research tasks to the Public Health Dental Hygiene & Dental Therapy Subcommittee members. Per the instructions, answers to my assigned questions are submitted here as public comment ahead of the January 7th, 2021, second regulatory workshop. In addition to the requested responses, I have included many other questions that I request deliberation, research and discussion on by the Committee on Dental Hygiene & Dental Therapy and the Public Health Dental Hygiene & Dental Therapy Subcommittee.

Let me record my concern that the regulatory language on dental therapy presented in this second workshop has not been vetted by either the Committee on Dental Hygiene & Dental Therapy or the Public Health Dental Hygiene & Dental Therapy Subcommittee.

Regulatory language should not be drafted in isolation of a full discussion and an opportunity to research and complete a thoughtful process. Public health and patient safety are in jeopardy if the committee and subcommittee are not allowed to meet and thoroughly vet the proposed regulatory language.

Implementation of Senate Bill 366 by the Nevada State Board of Dental Examiners (NSBDE) is necessary for other state agencies, such as the Division of Health Care Financing and Policy (DHCFP), to meet provisions outlined in SB 366. For DHCFP, the state Medicaid agency, this includes creating a new provider type, mapping of Medicaid CDT codes, and revising MSM Chapter 1000-Dental. This work is dependent on the establishment of NSBDE's regulatory decisions; however, the process should not be rushed as significant concerns have been raised by the Nevada Dental Association and the Nevada Dental Hygienists' Association.

I would like to personally thank the Nevada State Board of Dental Examiners for establishing the Public Health Dental Hygiene & Dental Therapy Subcommittee as a unit of subject matter experts. This subcommittee is prepared to examine evidence-based guidance and then develop regulatory language that protects patients' safety without inhibiting access to care for the underserved or needlessly creating barriers to implementing legislatively approved workforce expansion. I request that the subcommittee and committee be permitted to work together to improve Nevada's oral health by thoroughly reviewing SB 366 and drafting proposed regulations.

Sincerely,

Antonina Capurro, DMD, MPH, MBA
State Dental Health Officer
Division of Public and Behavioral Health
Nevada Department of Health and Human Services

Enclosure:

Public Health Dental Hygiene & Dental Therapy Subcommittee assignment

Work Group Tasks for Assigned Subcommittee Member

- 1. Assigned Question:** Craft a mission statement re: the oral health goals to be met by dental therapists who will be serving underserved populations, including procedures that are not currently being fulfilled. (Capurro)

Response:

This question addresses three separate areas:

1. What is the purpose of the dental therapist in serving underserved populations?
 2. What procedures are not currently being fulfilled?
 3. What is the mission statement of SB 366.?
- a.** According to the bill’s sponsor and co-authors as recorded during the 80th (2019) Legislative Session, the purpose of Senate Bill No. 366 was to increase access to oral health care for underserved Nevadans through the establishment of the profession of dental therapy. SB 366 describes the purpose of a dental therapists as a trained oral health practitioner who works “under the authorization of a dentist” and “in accordance with a written practice agreement signed by the dental therapist and the authorizing dentist.” The dental therapist may only provide specific services that are authorized by the dentist and are provided “according to written protocols or standing orders established by the authorizing dentist.” Practice locations are specified in section 61, subsection 3 of SB 366, and the bill indicates that dental therapists were created to expand access to oral health care for individuals in rural communities, those being served by a tribal organization, and low-income, disabled, or otherwise disadvantaged individuals.
- b.** It is not a question of what specific procedures are not being fulfilled in Nevada, but rather the disproportionate disbursement of providers throughout the state as well as low provider enrollment levels in the state-funded dental insurance program (Medicaid). Nevada is the seventh-largest state in the nation with all 16 counties experiencing some form of dental health professional shortage designation due to low provider-to-patient ratios. Federally designated dental health professional shortage areas (HPSA) indicate areas in which the population-to-provider ratio is 1-to-5,000. More than 950,000 Nevadans live in a dental HPSA with 52.49% of unmet dental needs.⁴ Access to care is severely limited in rural and frontier areas and the gap continues to widen. From 2008 to 2018, there was a 2.9% decrease in dentists per 100,000 population in rural and frontier territories.⁸ Even in urban areas dental health professional shortage areas are present. In addition to localized dental deserts, poverty is a significant factor that contributes to dental health professional shortage areas. More than 700,000 individuals (22% of the state population) are enrolled in Medicaid and CHIP and rely on state assistance for health care coverage.⁵ However, these Medicaid patients often have limited provider choices with only 20% of dentists willing to provide services through the Medicaid dental managed care organization (MCO) in urban areas (currently Liberty Dental Plan).¹⁰ According to SB 366, dental therapy means “the performance of educational, preventive, therapeutic, palliative and restorative or surgical treatment of intraoral or extraoral procedures.”

These are the procedures that the bill sponsor felt were lacking in rural communities and dental health professional shortage areas for underserved populations across Nevada.

- c. Possible mission statement: Oral health is a critical component to overall health and well-being for Nevadans across the lifespan. SB 366 expands the dental workforce to increase health equity through continuous, coordinated preventive, routine, and emergency oral health services in an accountable and patient-centered system. Dental therapists work under the authorization of a dentist and as an extension of the dental team to promote oral health and improve access to dental care for all Nevadans regardless of location or income level.

2. **Assigned Question:** Compile a directory of rural health clinics, federally qualified health centers/clinics, and tribal health programs or facilities that are qualified to employ dental therapists. (Capurro)

Response: NRS 631.3122 (3)(2019) and Section 61, subsection 3 of SB 366 describe the practice locations of a dental therapist. Locations that fall under sections a-g are listed by county and may be appear in more than one county area. NRS 631.3122(3), sections f and g are less well defined, and additional links to clinics that may qualify in those categories are provided below.

Carson City

- Facility: Adopt-A-Vet Dental Program
- Facility: Compassion Community Clinic
- Facility: Nevada Health Centers
- Facility: Northern Nevada Correctional Center
- Facility: Warm Springs Correctional Center

Churchill County

- Facility: Fallon Health Center

Clark County

- Facility: College of Southern Nevada, Dental Hygiene Program
- Facility: Firstmed Health and Wellness Center
- Facility: Florence McClure Correctional Center
- Facility: Future Smiles
- Facility: High Desert State Prison
- Facility: Hope Christian Health Center Corporation
- Facility: Las Vegas Paiute Tribe
- Facility: Moapa Band of Paiutes
- Facility: Moapa Health Clinic
- Facility: Nevada Health Centers
- Facility: Silver State Health Services
- Facility: Southern Desert Correctional Center
- Facility: University of Nevada, Las Vegas, School of Dental Medicine

Douglas County

- Facility: Minden Family Medicine
- Facility: Topaz Ranch Medical Clinic
- Facility: Washoe Tribal Health Center-Gardnerville Health Center

Elko County

- Facility: Duck Valley Shoshone Tribe
- Facility: Elko Health Center
- Facility: Owyhee Community Hospital
- Facility: South Fork Band Council
- Facility: Te-Moak Tribe of Western Shoshone

Esmeralda County

Eureka County

Humboldt County

- Facility: Fort McDermitt Tribal Health Center
- Facility: Humboldt General Rural Health Clinic

Lander County

- Facility: Battle Mountain Band
- Facility: Battle Mountain Clinic
- Facility: Yomba Shoshone Tribe

Lincoln County

Lyon County

- Facility: Silver Springs Rural Health Centers
- Facility: Smith Valley Physicians Clinic
- Facility: South Lyon Health Center - Barnett
- Facility: South Lyon Physicians Clinic
- Facility: Yerington Paiute Tribe

Mineral County

- Facility: Walker River Paiute Tribal Health Center

Nye County

- Facility: Duckwater Shoshone Tribe

Pershing County

- Facility: Lovelock Correctional Center
- Facility: Lovelock Paiute Tribe
- Facility: Pershing General Hospital and Nursing Home Physician Center

Storey County

Washoe County

- Facility: Adopt-A-Vet Dental Program
- Facility: Community Health Alliance
- Facility: Compassion Community Clinic
- Facility: Nevada Urban Indians, Inc.
- Facility: Northern Nevada Hopes
- Facility: Northern Nevada Dental Health Programs
- Facility: Pyramid Lake Tribal Health Center
- Facility: Reno Sparks Shoshone Paiute Health Center
- Facility: Truckee Meadows Community College Dental Hygiene Program

White Pine County

- Facility: Ely Health Station
- Facility: Ely State Prison
- Facility: Newe Medical Clinic\Ely Shoshone Tribe
- Facility: William Bee Ririe Hospital-Rural Health Clinic

Sections f and g are less well defined and may include the following entities:

- Any clinic in which 50 percent of the total patient base are enrolled in a health care program administered by the Department of Health and Human Services: See <https://www.insurekidsnow.gov/find-a-dentist/index.html>; <https://www.libertydentalplan.com/Nevada/LIBERTY-Dental-Plan-of-Nevada.aspx>; <http://dhcfp.nv.gov/Pgms/CPT/Dental/>
- Any mobile dental unit in which at least 50 percent of the patient base is enrolled in a health care program administered by the Department of Health and Human Services, have a medical disability or chronic condition that creates a significant barrier to receiving dental care, or do not have dental health coverage through a public health care program or private insurance and have a household income which is less than 200 percent of the federally designated level signifying poverty: See <http://dental.nv.gov/uploadedFiles/dentalnv.gov/content/Licensure/Resources/Public%20Health%20Dental%20Hygiene%20Board%20Approved%20Programs.PDF>
- Any clinic in which 50 percent of the total patient base do not have dental health coverage through a public health care program or private insurance and have a household income which is less than 200 percent of the federally designated level signifying poverty: See [http://dpbh.nv.gov/uploadedFiles/dpbh.nv.gov/content/Programs/OH/dta/Community/2017%20Apr%20Dental%20Services%20Inventory%20for%20clients%20FINAL%20\(1\)\(2\).pdf](http://dpbh.nv.gov/uploadedFiles/dpbh.nv.gov/content/Programs/OH/dta/Community/2017%20Apr%20Dental%20Services%20Inventory%20for%20clients%20FINAL%20(1)(2).pdf)

Additional Questions for Consideration:

1. NRS 631.312(d) describes that a dental therapist must be in possession of a current special endorsement to practice public health dental hygiene.
 - Will the dental therapist be required to work in that dental public health setting or will a different endorsement type be created?
2. NRS 631.3122(2), specifies “the standing protocols may require the authorizing dentist to personally examine patients either face-to-face or by the use of electronic means.”
 - Will NSBDE define how these teledental services should be used to ensure public health and safety standards are maintained when the dental therapist is working remotely?
3. Under NRS 631.3125(18), the scope of practice for dental therapists extends to “other related services and functions.”
 - Will NSBDE provide more details on what this might include? For Medicaid billing, a list of reimbursable services will need to be built. More specific guidelines on authorized care and services would be appreciated.
4. Per NRS 631.3122, dental therapists are required to practice “only under the direct supervision of authorizing dentist until” a set number of hours of clinical service are completed.
 - Is this a one-time requirement or are these hours tied to each employment role and/or written practice agreement? If so, how will NSBDE monitor these hour requirements?
 - Will NSBDE recognize the dental therapist as a separate entity eligible for claim reimbursement under his/her own NPI when completing these hourly requirements? Or, will NSBDE monitor the dental therapist during this period as an employee of the authorizing dentist and direct services provided by a dental therapist during this period to be billed under the authorizing dentist’s NPI?
5. NRS 631.3123, sets forth the provisions of the written practice agreement.
 - Will the written practice agreement be kept on file with NSBDE upon origination between the dentist and dental therapist?
 - Will NSBDE define the roles and responsibilities of supervising dentists and dental therapist whether in regulation or in policy standards?
 - Will NSBDE provide a written practice agreement template?
 - Will NSBDE provide guidance that assists dentists and dental therapists in defining the scope of practice?
 - Resource: [Minnesota Dental Therapy Collaborative Management Agreement](#)
6. NRS 631.3123 describes “protocols for administering and dispensing medications.”
 - Are pharmacy board requirements needed in regulatory language?
7. NRS 631.3128, limits the number of written practice agreements a dentist can enter into with dental therapist?
 - How will NSBDE monitor these agreements?
 - Within what timeframe of the discontinuance of a practice agreement does notification to NSBDE need to be submitted?
 - Resource: [Minnesota Collaborative Agreements](#)
 - Resource: [Minnesota Dental Therapy Guidelines](#)
8. NRS 631.3124(3) describes the supervision of dental assistants and dental hygienists by dental therapist.
 - Is regulatory language needed to set parameters on the number of dental assistants and dental hygienists that can be safely supervised?

9. Has NSBDE consider any method to gather metrics on the impact of licensing dental therapists on patient safety, cost-effectiveness, and access to dental services in Nevada?
 - Per the bill language Sec.133.5, “a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature that details the impact of authorizing the practice of dental therapy on the quality and availability of dental services in this State” is due no later than Jan. 1, 2025.
 - Resource: [Minnesota Dental Therapy Survey](#)

References:

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Public Comment:

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Ihsan Azzam, Ph.D., M.D.
Chief Medical Officer

January 6, 2021

Widespread disparities in access to dental services have resulted in a disproportionate prevalence of dental disease for low-income and vulnerable patients and communities, which are often racially and ethnically diverse. The Nevada legislature approved SB366, the establishment and incorporation of Dental Therapists (DTs) into the healthcare workforce in 2019, as one means of addressing these oral health disparities. In order to maximize the benefits of the services that DTs are qualified to provide it is critical that they be fully integrated into the workforce. This integration can be facilitated through a good understanding of the dental therapy profession.

Malpractice

As a member of the Nevada State Board of Dental Examiners (NSBDE) Sub-Committee of Public Health and Dental Therapy, the request has been made to research the current availability and cost of dental therapy malpractice coverage, both for Nevada (if any) and other states that currently license dental therapists.

Many DTs practice within Federally Qualified Health Centers (FQHCs) and are covered by the Federal Tort Claims Act (FTCA). This act covers procedures within scope at no cost to employee or employer; it is covered by the Federal Government.¹ In addition, liability insurers in Minnesota report that there is no additional cost for professional liability coverage for employment of a dental therapist compared to the employment of another dental assistant or hygienist.² Those that practice in other settings within Minnesota, have reported annual coverage fees between \$388 and \$960 for 1,000,000/3,000,000 limits of liability.³ Requests have been made for quotes specific for a provider in Nevada from various malpractice carriers and with additional time can be provided to the Committee.

Currently only Public Health Endorsed Dental Hygienists are required by NSBDE to carry malpractice insurance (Note: this is currently being implemented by NSBDE without NRS or NAC authority). While it is advisable for all licensed dental practitioners to carry malpractice liability insurance, the regulations set forth by NSBDE should be evenly applied across licensees, rather than limited to only a specific provider type. In addition, no additional states that have passed dental therapy bill language have statutory requirement of professional liability insurance as a requirement for licensure. With the exception of Connecticut, none of these states require any category of licensed dental practitioners to carry professional liability insurance (see section below).

All Nevadans deserve fair and equal access to safe, quality dental care despite social and economic status. *All* licensed dental practitioners, not just dental therapists, should be subject to the same accountability and recourse as a safeguard to protect the public.

Additional Considerations

Any time a new professional is introduced into the workforce, the established, related workforce members often question the need for, competence of, and acceptance of these new care providers. While dental therapy may be new to Nevada, there is long standing research confirming that DTs

provide high-quality, cost-effective routine care and improve access to treatment in parts of the country where dentists are scarce.⁴

In addition to the topics that were assigned to the sub-committee, the following topics of further research should be considered, but not limited to:

- a) Appropriate licensure fees based on fiscal analysis
- b) Provisions of collaborative practice agreements
- c) Regulatory language that allows for integration into the Nevada Medicaid program and other reimbursement pathways
- d) Pharmacy requirements for administering and dispensing medications
- e) NSBDE infrastructure needs for management of dental therapy related activities

It is recommended that the Sub-Committee function more as a workgroup dedicated to the topic of dental therapy where the Sub-Committee is able to openly dialogue – without the constraints of open meeting laws and time limitations during public comment – with one another as they carefully and thoughtfully formulate proposed regulations for the Committee to review. The current structure is not conducive for collaboration between the members of the Sub-Committee amongst one another or with members of the Committee. It may be more beneficial to utilize the content matter experts to the top of their skill set as the process moves forward. It is also requested that workgroup assignments be given an appropriate allotted time for research so that meaning feedback may be provided.

Finally, it is important for new provider models to remain malleable during the initial years and to be willing to evolve to acquire the education and training necessary to successfully meet the needs of the community that they serve. It would be the recommendation that dental therapists be allowed to practice to the full extent of their education to serve the public and increase access to care. Undue restrictions and barriers may hinder implementation.

Background

Globally, mid-level providers have delivered oral health care for many years, beginning in New Zealand with the establishment of the School Dental Service in 1921 and the use of *dental nurses* to meet the oral health needs of children.⁵ In 2009, Minnesota became the first state government in the U.S. to authorize the licensing of dental therapists. Minnesota's law created two levels of dental therapist practice – the Dental Therapist and the Advanced Dental Therapist – and required that these providers primarily serve low-income, uninsured and underserved patients, or practice in a dental Health Professional Shortage Area.

Dental Therapists and Advanced Dental Therapists play a key role in increasing access to dental care and preventing emergency room visits for dental-related problems.

- **Dental Therapists** (DTs) are mid-level practitioners *licensed* by the [Board of Dentistry](#) and members of an oral health care team. They provide evaluative, preventive, restorative and minor surgical dental care within their scope of practice. Dental Therapists (DT) work under the direction of a dentist.
- **Advanced Dental Therapists** (ADT) are *certified* by the [Board of Dentistry](#) and, with their advanced training and clinical practice, are able to provide all the services that a Dental Therapist provides plus additional services such as oral evaluation and assessment, treatment plan formulation, non-surgical extraction of certain diseased teeth, and more.



ADTs also practice under the supervision of a licensed dentist, but the dentist does not need to see the patient prior to them receiving care or be on site during a procedure.

Dental Therapists and Advanced Dental Therapists work under the direction of a Minnesota licensed dentist through a collaborative management agreement ([Minnesota Statutes Sections 150A.105](#) and [150A.106](#)). The level of supervision varies in accordance with [Minnesota Rule 3100.0100, Subpart 21](#)

Current Malpractice Requirements by States

Minnesota: Advanced Dental Therapist, (Signed into Law, 2009) – not a requirement for licensure by the Minnesota Board of Dentistry

Maine: Dental Hygiene Therapist, (Signed into Law, 2014; Amended, 2019) – not a requirement for licensure by the Maine Board of Dental Practice

Vermont: Dental Therapist, (Signed into Law, 2016) – not a requirement for licensure by the Vermont Board of Dental Examiners

Arizona: Dental Therapist, (Signed into Law, 2018) – not a requirement for licensure by the Arizona State Board of Dental Examiners

Michigan: Dental Therapist, (Signed into Law, 2018) – dental therapy regulations still in draft

New Mexico: Dental Therapist, (Signed into Law, 2019) – dental therapy regulations still in draft

Idaho: Dental Therapist, (Signed into Law, 2019) – dental therapy regulations still in draft

Nevada: Dental Therapist (Signed into Law, 2019) – dental therapy regulations still in draft; requires professional liability insurance for public health endorsed dental hygienist.

Connecticut: Dental Therapist (Signed into Law, 2019) – dental therapy regulations still in draft; requires professional liability insurance for dentists and dental hygienist.

*Alaska, Oregon, and Washington function under the model of Dental Health Aide Therapists (DHAT) and are restricted to practice on tribal lands, therefore, are covered under the FTCA.

Respectfully,

Jessica L. Woods, MPH, RDH
Interim State Dental Hygienist, Nevada Oral Health Program

¹ National Child and Maternal Health Resource Center. *Safety Net Dental Clinic Manual – Section 3. Liability Protection*. <https://www.dentalclinicmanual.com/4-admin/sec3-06.php>

² National Child and Maternal Health Resource Center. *Hiring a Dental Therapist or Advanced Dental Therapist – Professional Liability*. <https://www.mchoralhealth.org/mn/dental-therapy/professional-liability.html>

³ Minnesota Dental Therapy Association

⁴ Philips, E. & Shafer, H.L. (2013). *Dental Therapists – Evidence of Technical Competence*.

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