

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1173 Dental Therapy  
**SPONSOR(S):** Chaney  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1254

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthcare Regulation Subcommittee	14 Y, 3 N	Osborne	McElroy
2) Health Care Appropriations Subcommittee	9 Y, 5 N	Aderibigbe	Clark
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

The Board of Dentistry (BOD) regulates dental practice in Florida, including dentists, dental hygienists, and dental assistants under the Dental Practice Act. A dentist is licensed to examine, diagnose, treat, and care for conditions within the human oral cavity and its adjacent tissues and structures. A dental hygienist provides education, preventive and delegated therapeutic dental services. There are currently 17,193 dentists, 17,681 dental hygienists, and 8,371 dental radiographers with active licenses to practice in Florida. There are 41 out-of-state registered telehealth dentists.

Dental therapists are mid-level dental care providers; the role of dental therapists has been equated to that of physician assistants in medicine. Under dentist supervision, dental therapists provide preventative and routine restorative care, such as filling cavities, placing temporary crowns, and extracting badly diseased or loose teeth. There are currently 14 states in the US that authorize the practice of dental therapy to some extent. Florida does not currently issue licenses for dental therapists.

Current law limits the use of mobile dental units in Medicaid. Medicaid reimbursement is only available for dental services provided by mobile dental units owned or operated by, or under contract with, a county health department, FQHC, state-approved dental educational institution, or a mobile dental unit providing adult dental services at a nursing home.

HB 1173 establishes licensure criteria for dental therapists. The bill specifies the scope of practice for dental therapists and requires they operate under a written collaborative management agreement with a licensed dentist. The bill sets continuing education requirements for dental therapists.

The bill directs the BOD to establish a Council on Dental Therapy to advise the BOD on matters relating to the practice and regulation of dental therapy. The bill directs the chair of the BOD to appoint the members of the Council 28 months after the first dental therapy license is granted by the BOD and sets requirements for the composition of the Council.

The bill allows Medicaid to provide reimbursement for dental services provided by a mobile dental unit owned by, operated by, or having a contractual relationship with a health access setting or similar program serving underserved populations.

The bill has an indeterminant, negative fiscal impact on state government, and no fiscal impact on local governments.

The bill provides an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Regulation of Dental Practice in Florida

The Board of Dentistry (BOD) regulates dental practice in Florida, including dentists, dental hygienists, and dental assistants under the Dental Practice Act.<sup>1</sup> Dentists and dental hygienists must receive specified education and training to be licensed and practice in their respective professions;<sup>2</sup> dental assistants are not a licensed profession and provide a narrow scope of services as authorized and supervised by a licensed dentist.<sup>3</sup>

There are currently 17,193 dentists and 17,681 dental hygienists with active licenses to practice in Florida. There are 41 out-of-state registered telehealth dentists.<sup>4</sup>

##### *Dentists*

A dentist is licensed to examine, diagnose, treat, and care for conditions within the human oral cavity and its adjacent tissues and structures.<sup>5</sup> Dentists may delegate certain tasks<sup>6</sup> to dental hygienists and dental assistants, but a patient's "dentist of record" retains primary responsibility for all dental treatment on the patient.<sup>7</sup>

Any person wishing to practice dentistry in this state must meet specified requirements and apply to the Department of Health (DOH) for licensure. Applicants must sit for and pass three examinations prior to licensure:<sup>8</sup>

- The National Board of Dental Examiners dental examination (NBDE);
- A practical examination, which is the American Dental Licensing Examination developed by the American Board of Dental Examiners, Inc.;<sup>9</sup> and
- A written examination on Florida laws and rules regulating the practice of dentistry and dental hygiene.

To qualify to take the Florida dental licensure examination, an applicant must be 18 years of age or older, be a graduate of a dental school accredited by the American Dental Association or be a student in the final year of a program at an accredited institution, and have successfully completed the NBDE dental examination.<sup>10</sup>

Dentists must maintain professional liability insurance or provide proof of professional responsibility. If the dentist obtains professional liability insurance, the coverage must be at least \$100,000 per claim, with a minimum annual aggregate of at least \$300,000.<sup>11</sup> Alternatively, a dentist may maintain an unexpired, irrevocable letter of credit in the amount of \$100,000 per claim, with a minimum aggregate availability of credit of at least \$300,000.<sup>12</sup> The professional liability insurance must provide coverage

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<sup>1</sup> S. 466.004, F.S.

<sup>2</sup> S. 466.003(2) and (5), F.S.

<sup>3</sup> See, Rules 64B5-16.002 and 64B5-16.005, F.A.C.

<sup>4</sup> See, Department of Health *License Verification* web search. Available at <https://mqa-internet.doh.state.fl.us/MQASearchServices/HealthCareProviders> (last visited January 14, 2023).

<sup>5</sup> S. 466.003(2)-(3), F.S.

<sup>6</sup> S. 466.024, F.S.

<sup>7</sup> S. 466.018, F.S.

<sup>8</sup> S. 466.006, F.S.

<sup>9</sup> Rule 64B5-2.013, F.A.C.

<sup>10</sup> S. 466.006(2), F.S.

<sup>11</sup> Rule 64B5-17.011(1), F.A.C.

<sup>12</sup> Rule 64B5-17.011(2), F.A.C.

for the actions of any dental hygienist supervised by the dentist.<sup>13</sup> However, a dentist may be exempt from maintaining professional liability insurance if he or she:<sup>14</sup>

- Practices exclusively for the federal government or the State of Florida or its agencies or subdivisions;
- Is not practicing in this state;
- Practices only in conjunction with his or her teaching duties at an accredited school of dentistry or in its main teaching hospitals; or
- Demonstrates to the Board that he or she has no malpractice exposure in this state.

### *Dental Hygienists*

A dental hygienist provides education, preventive and delegated therapeutic dental services under varying levels of supervision by a licensed dentist.<sup>15</sup> Any person wishing to be licensed as a dental hygienist must apply to DOH and meet the following qualifications:<sup>16</sup>

- Be 18 years of age or older;
- Be a graduate of an accredited dental hygiene college or school;<sup>17</sup> and
- Obtain a passing score on the:
  - Dental Hygiene National Board Examination;
  - Dental Hygiene Licensing Examination developed by the American Board of Dental Examiners, Inc., which is graded by a Florida-licensed dentist or dental hygienist employed by DOH for such purpose; and
  - A written examination on Florida laws and rules regulating the practice of dental hygiene.

A supervising dentist may delegate certain tasks to a dental hygienist, such as removing calculus deposits, accretions, and stains from exposed surfaces of the teeth and from the gingival sulcus and the task of performing root planning and curettage.<sup>18</sup> A dental hygienist may also expose dental X-ray films, apply topical preventive or prophylactic agents, and delegated remediable tasks.<sup>19</sup> Remediable tasks are intra-oral tasks which do not create an unalterable change in the oral cavity or contiguous structures, are reversible, and do not expose a risk to the patient, including but not limited to:

- Fabricating temporary crowns or bridges inter-orally;
- Selecting and pre-sizing orthodontic bands;
- Preparing a tooth service by applying conditioning agents for orthodontic appliances;
- Removing and re-cementing properly contoured and fitting loose bands that are not permanently attached to any appliance;
- Applying bleaching solution, activating light source, and monitoring and removing in-office bleaching solution;
- Placing or removing rubber dams;
- Making impressions for study casts which are not being made for the purpose of fabricating any intra-oral appliances, restorations, or orthodontic appliances;
- Taking impressions for passive appliances, occlusal guards, space maintainers, and protective mouth guards; and
- Cementing temporary crowns and bridges with temporary cement.

A dental hygienist may perform additional remediable tasks as delegated by the supervising dentist if they have received additional training in a pre-licensure course, other formal training, or on-the-job

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<sup>13</sup> Rule 64B5-17.011(4), F.A.C.

<sup>14</sup> Rule 64B5-17.011(3), F.A.C.

<sup>15</sup> S. 466.003(4)-(5), F.S.

<sup>16</sup> S. 466.007, F.S.

<sup>17</sup> If the school is not accredited, the applicant must have completed a minimum of 4 years of postsecondary dental education and received a dental school diploma which is comparable to a D.D.S. or D.M.

<sup>18</sup> S. 466.023, F.S.

<sup>19</sup> Ss. 466.023 and 466.024, F.S.

training.<sup>20</sup> To administer local anesthesia, a dental hygienist must obtain certification which requires the dental hygienist completes an accredited course of 30 hours of didactic training and 30 hours of clinical training and is certified in basic or advanced cardiac life support. Once certified, the dental hygienist may only administer local anesthesia to a non-sedated, adult patient.<sup>21</sup>

### *Dental Assistants*

Dental assistants provide limited dental care services under the supervision and authorization of a licensed dentist.<sup>22</sup> Florida does not license dental assistants; however, dental assistants may choose to receive formal education in dental assisting and obtain a national certification.<sup>23</sup> Dental assistants who have graduated from a board-approved dental assisting school are eligible for certification as dental radiographers.<sup>24</sup>

The scope of practice for dental assistants is limited to the delegable tasks determined in Florida law and rule. The specific tasks that may be delegated to a dental assistant are dependent on the formal and on-the-job training the dental assistant has received.<sup>25</sup>

### *Supervision of Dental Hygienists and Dental Assistants*

Dental hygienists and dental assistants are generally required to practice under the supervision of a licensed dentist. There are three levels of supervision that a dental hygienist and dental assistant may be subject to:<sup>26</sup>

- Direct supervision: A licensed dentist examines the patient, diagnose a condition to be treated, authorize the procedure to be performed, be on the premises while the procedure is performed, and approve the work performed prior to the patient's departure from the premises;
- Indirect supervision: A licensed dentist examines the patient, diagnose a condition to be treated, authorize the procedure to be performed, and be on the premises while the procedure is performed; and
- General supervision: A licensed dentist authorizes the procedures to be performed but need not be present when the authorized procedures are being performed. The authorized procedures may also be performed at a place other than the dentist's usual place of practice.

The level of supervision required is dependent upon the specific task being performed, the education and training of the dental professional, and the discretion of the supervising dentist. Supervisory standards are outlined in current law and rule prescribed by the BOD.<sup>27</sup>

Dental hygienists are authorized to perform dental charting without dentist supervision. Dental charting includes the recording of visual observations of clinical conditions of the oral cavity without the use of X-rays, laboratory tests, or other diagnostic methods or equipment, except the instruments necessary to record visual restorations, missing teeth, suspicious areas, and periodontal pockets.<sup>28</sup> Dental charting is not a substitute for a comprehensive dental examination, and each patient who receives dental charting by a dental hygienist must be informed of the limitations of dental charting.<sup>29</sup> Dental

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<sup>20</sup> See, ss. 466.023, 466.0235, and 466.024, F.S.; and Rule 64B5-16, F.A.C.

<sup>21</sup> S. 466.017(5), F.S.

<sup>22</sup> S. 466.003(6), F.S.

<sup>23</sup> See, Dental Assisting National Board, *Earn Dental Assistant Certification*. Available at <https://www.danb.org/certification/earn-dental-assistant-certification> (last visited January 18, 2024).

<sup>24</sup> Rule 64B5-9.011, F.A.C.; A dental assistant may also become eligible for certification as a dental radiographer through three continuous months of on-the-job training under the direct supervision of a dentist.

<sup>25</sup> For more information on the specific tasks which maybe delegated to a dental assistant, and the required training for each task, see, rules 64B5-16.002 and 64B5-16.005, F.A.C.

<sup>26</sup> Rule 64B5-16.001, F.A.C.

<sup>27</sup> S. 466.024, F.S.; and ch. 64B5-16, F.A.C.

<sup>28</sup> S. 466.0235, F.S.; Dental hygienists may only perform periodontal probing as a part of dental charting if the patient has received medical clearance from a physician or dentist.

<sup>29</sup> Rule 64B5-16.0075, F.A.C.

hygienists performing dental charting without dentist supervision are required to maintain their own medical malpractice insurance or other proof of financial responsibility.<sup>30</sup>

Dental hygienists are not required to maintain professional liability insurance and must be covered by the supervising dentist's liability insurance,<sup>31</sup> unless they are providing services without dental supervision, in which case they must maintain their own medical malpractice insurance or other proof of financial responsibility.<sup>32</sup>

### Access to Dental Care in Florida

Lack of dental care can lead to poor oral health and poor overall health outcomes. Poor oral health is associated with a variety of poor health outcomes including diabetes, heart and lung disease, as well as increased stroke risk and adverse birth outcomes including pre-term deliveries and low birth-weight.<sup>33</sup>

The US Department of Health and Human Services' Health Resources and Services Administration (HRSA) designates Health Professional Shortage Areas (HPSAs). A HPSA is a geographic area, population group, or health care facility that has been designated by the HRSA as having a shortage of health professionals. There are three categories of HPSA: primary care, dental health, and mental health.<sup>34</sup> HPSAs can be designated as geographic areas; areas with a specific group of people such as low-income populations, homeless populations, and migrant farmworker populations; or as a specific facility that serves a population or geographic area with a shortage of providers.<sup>35</sup>

As of September 30, 2023, there are 266 dental HPSAs designated within the state. It would take 1,317 dentists distributed accordingly to eliminate these shortage areas.<sup>36</sup> Most dentists are disproportionately concentrated in the more populous areas of the state. Two counties, Dixie and Glades, do not have any licensed dentists, while other counties have over 150 dentists per 100,000 residents.<sup>37</sup>

### Dental Therapy

Dental therapists are mid-level dental care providers; the role of dental therapists has been equated to that of physician assistants in medicine. Under dentist supervision, dental therapists provide preventative and routine restorative care, such as filling cavities, placing temporary crowns, and extracting badly diseased or loose teeth. Dental therapists are part of a larger dental team, and allow dentists to be able to perform more advanced care and treat a larger number of patients.<sup>38</sup>

In 2015, the Commission on Dental Accreditations (CODA) established accreditation standards for dental therapy education programs.<sup>39</sup> To be accredited programs must, among other things:<sup>40</sup>

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<sup>30</sup> Rule 64B5-17.011(4), F.A.C.

<sup>31</sup> Rule 64B5-17.011(4), F.A.C.

<sup>32</sup> *Id.*, see also, s. 466.024(5), F.S.

<sup>33</sup> Mayo Clinic. *Oral Health: A Window to Your Overall Health* (2021). Available at <https://www.mayoclinic.org/healthy-lifestyle/adult-health/in-depth/dental/art-20047475> (last visited January 20, 2024).

<sup>34</sup> National Health Service Corps, *Health Professional Shortage Areas (HPSAs) and Your Site*. Available at <https://bhw.hrsa.gov/sites/default/files/bureau-health-workforce/workforce-shortage-areas/nhsc-hpsas-practice-sites.pdf>, (last visited January 8, 2024).

<sup>35</sup> HRSA, *What is a Shortage Designation?* Available at <https://bhw.hrsa.gov/workforce-shortage-areas/shortage-designation#hpsas>, (last visited January 8, 2024).

<sup>36</sup> Bureau of Health Workforce, Health Resources and Services Administration (HRSA), U.S. Department of Health and Human Services, *Designated Health Professional Shortage Areas Statistics, Fourth Quarter of Fiscal Year 2023* (Sept. 30, 2023), available at <https://data.hrsa.gov/topics/health-workforce/health-workforce-shortage-areas?hmpgtile=hmpg-hlth-srvcs> (last visited January 8, 2024). To generate the report, select "Designated HPSA Quarterly Summary."

<sup>37</sup> Department of Health, FL Health Charts: Dentists (DMD, DDS). Available at <https://www.flhealthcharts.gov/ChartsDashboards/rdPage.aspx?rdReport=NonVitalIndNoGrp.Dataviewer> (last visited January 20, 2024).

<sup>38</sup> American Dental Therapy Association. *Get the Facts*. Available at <https://www.americandentaltherapyassociation.org/get-the-facts> (last visited January 20, 2024).

<sup>39</sup> Commission on Dental Accreditation, *Accreditation Standards for Dental Therapy Education Programs* (2015). Available at [https://codada.org/-/media/project/ada-organization/ada/coda/files/dental\\_therapy\\_standards.pdf?rev=814980f6110140e7ba00659703cc3b3c&hash=81A3585FD5B1B478DA7D99065A9B75DE](https://codada.org/-/media/project/ada-organization/ada/coda/files/dental_therapy_standards.pdf?rev=814980f6110140e7ba00659703cc3b3c&hash=81A3585FD5B1B478DA7D99065A9B75DE) (last visited January 20, 2024).

<sup>40</sup> *Id.*

- Include at least 3 academic years of full-time instruction or its equivalent at the postsecondary college-level;
- Include content that is integrated with sufficient depth, scope, sequence of instruction, quality and emphasis to ensure achievement of the curriculum's defined competencies in the following three areas: general education, biomedical sciences, and dental sciences (didactic and clinical);
- Have content that includes oral and written communications, psychology, and sociology;
- Include biomedical instruction that ensures an understanding of basic biological principles, consisting of a core of information on the fundamental structures, functions and interrelationships of the body systems in each of the following areas:
  - Head and neck and oral anatomy;
  - Oral embryology and histology;
  - Physiology;
  - Chemistry;
  - Biochemistry;
  - Microbiology;
  - Immunology;
  - General pathology and/or pathophysiology;
  - Nutrition; and
  - Pharmacology;
- Include didactic dental sciences that ensures an understanding of basic dental principles, consisting of a core of information in each of the following areas within the scope of dental therapy:
  - Tooth morphology;
  - Oral pathology;
  - Oral medicine;
  - Radiology;
  - Periodontology;
  - Cariology;
  - Atraumatic restorative treatment;
  - Operative dentistry;
  - Pain management;
  - Dental materials;
  - Dental disease etiology and epidemiology;
  - Preventive counseling and health promotion;
  - Patient management;
  - Pediatric dentistry;
  - Geriatric dentistry;
  - Medical and dental emergencies;
  - Oral surgery;
  - Prosthodontics; and
  - Infection and hazard control management; and
- Ensure that graduates are competent in their use of critical thinking and problem-solving, related to the scope of dental therapy practice.

Currently, three dental therapy programs in the US have received accreditation by CODA.<sup>41</sup> The accredited dental therapy programs are located in Minnesota, Alaska, and Washington state.

There are currently 14 states in the US that authorize the practice of dental therapy to some extent.<sup>42</sup> There has been some evidence indicating that authorizing the practice of dental therapists has improved access to oral health care.<sup>43</sup> Florida does not currently issue licenses for dental therapists.

<sup>41</sup> Commission on Dental Accreditation, *Search for Dental Programs*. Available at [https://coda.ada.org/find-a-program/search-dental-programs#sort=%40codastatecitysort%20ascending&f:ProgramType=\[Dental%20Therapy\]](https://coda.ada.org/find-a-program/search-dental-programs#sort=%40codastatecitysort%20ascending&f:ProgramType=[Dental%20Therapy]) (last visited January 20, 2024). Two of the three programs are fully accredited and operational; the third program is still in the process of obtaining full accreditation.

<sup>42</sup> Oral Health Workforce Research Center. *Authorization Status of Dental Therapists by State*. Available at <https://oralhealthworkforce.org/authorization-status-of-dental-therapists-by-state/> (last visited January 20, 2024). These states include: Vermont, Washington, Michigan, Minnesota, Montana, Nevada, New Mexico, Oregon, Alaska, Arizona, Colorado, Connecticut, Idaho,



## Florida Medicaid – Dental Services

Medicaid is the health care safety net for low-income Floridians. Medicaid is a partnership of the federal and state governments established to provide coverage for health services for eligible persons. The program is administered by the Agency for Health Care Administration (AHCA) and financed by federal and state funds. AHCA delegates certain functions to other state agencies, including the Department of Children and Families (DCF), the Department of Health (DOH), the Agency for Persons with Disabilities, and the Department of Elderly Affairs (DOEA).

The structure of each state's Medicaid program varies and what states must pay for is largely determined by the federal government, as a condition of receiving federal funds.<sup>44</sup> Federal law sets the amount, scope, and duration of services offered in the program, among other requirements. The federal government sets the minimum mandatory populations to be included in every state Medicaid program. The federal government also sets the minimum mandatory benefits to be covered in every state Medicaid program. These benefits include physician services, hospital services, home health services, and family planning.<sup>45</sup> States can add benefits, with federal approval; Florida has added many optional benefits, including adult dental services.<sup>46</sup>

### Dental Services

While most Medicaid services are provided by comprehensive, integrated, managed care plans, dental services are provided by separate, dental-only, plans. Medicaid covers dental benefits for both children<sup>47</sup> and adults. Medicaid covers full dental services for children.<sup>48</sup> Adult dental benefits are limited to emergency treatment and dentures, and do not include preventive services.<sup>49</sup> However, Medicaid dental plans provide expanded dental benefits to adults, including preventive and restorative dental services at no cost to the state.<sup>50</sup> The chart below indicates the covered dental services.<sup>51</sup>

Children		Adults
Ambulatory Surgical Center or Hospital-based Dental Services	Orthodontics	Dental Exams (emergencies and dentures only)
Dental Exams	Periodontics	Dental X-rays (limited)
Dental Screenings	Prosthodontics (dentures)	Prosthodontics (dentures)
Dental X-rays	Root Canals	Extractions
Extractions	Sealants	Sedation
Fillings and Crowns	Sedation	Ambulatory Surgical Center or Hospital-based Dental Services
Fluoride	Space Maintainers	
Oral Health Instructions	Teeth Cleanings	

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and Maine. Some states only authorize dental therapy in the context of providing services for Native American Tribes. For more information on Tribal Dental Therapy, see National Indian Health Board, *Tribal Dental Therapy Legislation in the States*. Available at <https://www.nihb.org/oralhealthinitiative/map.php> (last visited January 20, 2024).

<sup>43</sup> Mertz, E., Kottek, A., Werts, M., Langelier, M., Surdu, S., & Moore, J. *Dental Therapists in the United States: Health Equity, Advancing*. (2021). Medical care, 59(Suppl 5), S441–S448. <https://doi.org/10.1097/MLR.0000000000001608>

<sup>44</sup> Title 42 U.S.C. §§ 1396-1396w-5; Title 42 C.F.R. Part 430-456 (§§ 430.0-456.725) (2016).

<sup>45</sup> S. 409.905, F.S.

<sup>46</sup> S. 409.906, F.S.

<sup>47</sup> Under the age of 21.

<sup>48</sup> S. 409.906(6), F.S.

<sup>49</sup> S. 409.906(1), F.S.

<sup>50</sup> Agency for Healthcare Administration, *Agency Analysis of HB 1177 (2023)*. On file with the Healthcare Regulation Subcommittee.

<sup>51</sup> Florida Medicaid, *Dental Services Coverage Policy* (August 2018). Available at [https://ahca.myflorida.com/content/download/5945/file/59G-4.060\\_Dental\\_Coverage\\_Policy.pdf](https://ahca.myflorida.com/content/download/5945/file/59G-4.060_Dental_Coverage_Policy.pdf) (last visited January 20, 2024).

Dental services under Medicaid may be provided by a:<sup>52</sup>

- Licensed dentist or dental hygienist;
- County health department administered by DOH;
- Federally qualified health center (FQHC);<sup>53</sup> or a
- Dental intern or a dental graduate temporarily certified to practice in a state operated hospital or a state or county government facility in accordance with s. 466.025, F.S.

### *Mobile Dental Units*

Current law prohibits Medicaid reimbursement for dental services provided in a mobile dental unit except under specified circumstances. Medicaid may reimburse services provided in a mobile dental unit owned or operated by, or under contract with, a county health department, FQHC, state-approved dental educational institution, or a mobile dental unit providing adult dental services at a nursing home.<sup>54</sup> Current law does not authorize the reimbursement for dental services provided in a mobile dental unit owned by, operated by, or having a contractual agreement with a health access setting.<sup>55</sup>

### The Sunrise Act and Sunrise Questionnaire

The Sunrise Act (Act), codified in s. 11.62, F.S., requires the Legislature to consider specific factors in determining whether to regulate a new profession or occupation.<sup>56</sup> The legislative intent in the Act provides that:<sup>57</sup>

- No profession or occupation be subject to regulation unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage and that the state's police power be exercised only to the extent necessary for that purpose; and
- No profession or occupation be regulated in a manner that unnecessarily restricts entry into the practice of the profession or occupation or adversely affects the availability of the services to the public.

The Legislature must review all legislation proposing regulation of a previously unregulated profession or occupation and make a determination for regulation based on consideration of the following:<sup>58</sup>

- Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
- Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;
- Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
- Whether the public is or can be effectively protected by other means; and

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<sup>52</sup> *Id.*

<sup>53</sup> A federally qualified health center is a federally funded nonprofit health center or clinic that serves medically underserved areas and populations regardless of an individual's ability to pay. See Federally Qualified Health Center, HealthCare.gov. Available at <https://www.healthcare.gov/glossary/federally-qualified-health-center-fqhc/> (last visited January 20, 2024).

<sup>54</sup> S. 409.906(1)(c) and (6)(a)-(d), F.S.

<sup>55</sup> S. 466.003, F.S.; a health access setting is a program or an institution of the Department of Children and Families, the Department of Health, the Department of Juvenile Justice, a nonprofit community health center, a Head Start center, a federally qualified health center or look-alike as defined by federal law, a school-based prevention program, a clinic operated by an accredited college of dentistry, or an accredited dental hygiene program in this state if such community service program or institution immediately reports to the Board of Dentistry all violations of s. 466.027, s. 466.028, or other practice act or standard of care violations related to the actions or inactions of a dentist, dental hygienist, or dental assistant engaged in the delivery of dental care in such setting.

<sup>56</sup> *Id.*

<sup>57</sup> S. 11.62(2), F.S.

<sup>58</sup> S. 11.62(3), F.S.



- Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

The act requires the proponents of legislation for the regulation of a profession or occupation to provide specific information in writing to the state agency that is proposed to have jurisdiction over the regulation and to the legislative committees of reference.<sup>59</sup> This required information is traditionally compiled in a “Sunrise Questionnaire.”

### *Dental Therapist Sunrise Questionnaire*

The Sunrise Questionnaire was completed on behalf of several National and Florida-based organizations seeking to advance the practice act for dental therapy. They include: The National Partnership for Dental Therapy, the National Coalition of Dentists for Health Equity, the American Dental Therapy Association, and Floridians for Dental Access.<sup>60</sup>

The questionnaire reflects that the licensure and regulation of dental therapists is being sought to address oral health access challenges. Existing law regulates the practice of dentistry in Florida.<sup>61</sup> The law prohibits anyone, other than dentists, to perform certain procedures that would be within the scope of practice for a dental therapist. The proposed legislation would authorize a dental therapist to practice dental therapy in Florida without violating the dental practice act. This is allowing a mid-level practitioner to provide some dental services that currently may only be provided by a dentist.<sup>62</sup>

Since dental therapist are not yet licensed, the public is already protected by the existing dental practice act. By licensing dental therapists, it will exclude unqualified practitioners from providing services, give official recognition to the field’s scope of practice, extend professional opportunities for dental care professionals, and expand access to dental care.<sup>63</sup>

### **Effect of the Bill**

HB 1173 creates a new licensed profession of “dental therapist,” and defines “dental therapy.”

### Dental Therapist Licensure

The bill establishes licensure requirements for dental therapists. Under the bill, an applicant for licensure as a dental therapist must take the appropriate licensure exams, verify their application for licensure under oath, and include two personal photographs with the application. In order to be eligible for the licensure exams, an applicant must:

- Be at least 18 years of age;
- Have graduated from a CODA-accredited dental therapy school or program, or a program accredited by another entity recognized by the US Department of Education;
- Successfully complete a dental therapy practical or clinical exam produced by the American Board of Dental Examiners (ADEX) within three attempts;
- Not have been disciplined by the BOD with the exception of minor violations or citations;
- Not have been convicted, or pled nolo contendere to a misdemeanor or felony related to the practice of dental therapy; and
- Pass a written exam on the laws and rules regulating the practice of dental therapy.

The bill creates a process for licensure by endorsement for dental therapists who have been licensed in another US jurisdiction.

<sup>59</sup> S. 11.62(4), F.S.

<sup>60</sup> FLORIDA SENATE SUNRISE QUESTIONNAIRE, Submitted January 22, 2024. On file with the Healthcare Regulation Subcommittee.

<sup>61</sup> Chapter 466, F.S.

<sup>62</sup> *Supra*, note 60.

<sup>63</sup> *Id.*

The bill requires dental therapists complete at least 24 hours of continuing education biennially. The continuing education must be approved by the BOD, and, in the opinion of the BOD, contribute directly to the dental education of the dental therapist.

The bill allows an individual licensed as both a dental therapist and dental hygienist to count two hours of continuing education toward the individual's total continuing education requirement. The bill allows the BOD to excuse the continuing education requirement due to an unusual circumstance, emergency, or hardship that prevented compliance. The bill gives the BOD rulemaking authority to establish the rules necessary to implement this section.

### Dental Therapist Scope of Practice

The bill authorizes licensed dental therapists to perform specific dental therapy services under the general supervision of a dentist, to the extent authorized by the supervising dentist and provided for by the terms of a written collaborative management agreement signed by the dental therapist and supervising dentist.

Dental therapy services include:

- All services, treatments, and competencies identified by CODA in the Dental Therapy Accreditation Standards;<sup>64</sup>
- Evaluation radiographs;
- Placement of space maintainers;
- Pulpotomies on primary teeth;
- Dispensing and administering nonopioid analgesics; and
- Oral evaluation and assessment of dental disease.

The bill outlines specific content which must be included in the written collaborative management agreement entered into by the dental therapist and dentist. The agreement must include:

- Practice settings where the dental therapist may provide services and to what populations;
- Any limitations on the services that may be provided by the dental therapist;
- Age-specific and procedure-specific practice protocols;
- A procedure for creating and maintaining dental records;
- A plan for managing medical emergencies in each relevant practice setting;
- A quality assurance plan;
- Protocols for the administration of medications;
- Criteria for the provision of care for patients with specific conditions or complex medical histories;
- Supervision criteria; and
- A plan for the provision of clinical resources and referrals in situations beyond the capabilities of the dental therapist.

The bill grants the supervising dentist the authority to limit the scope of practice of the individual dental therapist; the bill additionally allows the supervising dentist to establish a certain number of hours of direct and indirect supervision under which the dental therapist must practice prior to performing services under general supervision. The bill allows a dental therapist to perform services on a patient prior to the patient being seen by the supervising dentist.

The supervising dentist must be licensed and practicing in Florida. The supervising dentist is responsible for all services authorized and performed by the dental therapist pursuant to the

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<sup>64</sup> See, a complete list of services required for CODA Dental Therapy Accreditation Standards. Available at [https://coda.ada.org/-/media/project/ada-organization/ada/coda/files/dental\\_therapy\\_standards.pdf?rev=814980f6110140e7ba00659703cc3b3c&hash=81A3585FD5B1B478DA7D99065A9B75DE](https://coda.ada.org/-/media/project/ada-organization/ada/coda/files/dental_therapy_standards.pdf?rev=814980f6110140e7ba00659703cc3b3c&hash=81A3585FD5B1B478DA7D99065A9B75DE) (last visited January 20, 2024).

collaborative management agreement and for arranging follow-up services that exceeded the dental therapist's scope of practice or authorization.

### Council of Dental Therapy

The bill directs the establishment of a Council on Dental Therapy to advise the BOD on matters relating to the practice and regulation of dental therapy. The bill directs the chair of the BOD to appoint the members of the Council 28 months after the first dental therapy license is granted by the BOD. The Council members shall consist of one BOD member to chair the council and three dental therapists actively engaged in the practice of dental therapy in Florida. The bill requires that the council must meet at least three times per year following its formal establishment, and at the request of the BOD chair, a majority of BOD members, or the Council chair.

The bill makes conforming changes throughout the Ch. 466, F.S.

### Medicaid – Mobile Dental Units

The bill allows Medicaid to provide reimbursement for dental services provided by a mobile dental unit owned by, operated by, or having a contractual relationship with a health access setting or similar program serving underserved populations.

The bill provides an effective date of July 1, 2024.

## B. SECTION DIRECTORY:

- Section 1:** Amends s. 409.906, F.S., relating to optional Medicaid services.
- Section 2:** Amends s. 466.001, F.S., relating to Legislative purpose and intent.
- Section 3:** Amends s. 466.002, F.S., relating to persons exempt from operation of chapter.
- Section 4:** Amends s. 466.003, F.S., relating to definitions.
- Section 5:** Amends s. 466.004, F.S., relating to the Board of Dentistry.
- Section 6:** Amends s. 466.006, F.S., relating to examination of dentists.
- Section 7:** Amends s. 466.009, F.S., relating to reexamination.
- Section 8:** Amends s. 466.011, F.S., relating to licensure.
- Section 9:** Creates s. 466.0136, F.S., relating to continuing education; dental therapists.
- Section 10:** Amends s. 466.016, F.S., relating to license to be displayed.
- Section 11:** Amends s. 466.017, F.S., relating to prescription of drugs; anesthesia.
- Section 12:** Amends s. 466.018, F.S., relating to dentist of record; patient records.
- Section 13:** Creates s. 466.0225, F.S., relating to examination of dental therapists; licensing.
- Section 14:** Creates s. 466.0227, F.S., relating to dental therapists; scope and area of practice.
- Section 15:** Amends s. 466.026, F.S., relating to prohibitions; penalties.
- Section 16:** Amends s. 466.028, F.S., relating to grounds for disciplinary action; action by the board.
- Section 17:** Amends s. 466.0285, F.S., relating to proprietorship by nondentists.
- Section 18:** Creates an unnumbered section of law relating to a progress report and recommendations.
- Section 19:** Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill does not authorize DOH to collect application, licensure, or renewal fees.

#### 2. Expenditures:

DOH will incur an indeterminate, recurring negative fiscal impact related to the licensure, regulation, and enforcement of a new dental profession, dental therapy.<sup>65</sup> An analysis of DOH's Medical Quality Assurance Trust Fund indicates that there are sufficient resources available to implement the provisions of the bill.

As of January 2024, DOH has 63 vacancies greater than 100 days within the Medical Quality Assurance Services program and has the flexibility to reclassify and transfer positions to meet the demands of the unit.

DOH will incur an insignificant, non-recurring negative fiscal impact related to rulemaking, updates to DOH's website, and the Licensing and Enforcement Information Database System (LEIDS), which current appropriations are adequate to absorb.

Allowing mobile dental units owned by, operated by, or having a contractual relationship with a health access setting or similar program serving underserved populations to deliver Medicaid services may result in an increased number of Medicaid recipients receiving dental care. The impact to the Medicaid program is indeterminate, but likely insignificant.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill provides sufficient rule-making authority to implement the provisions of the bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

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<sup>65</sup> Department of Health, *Agency Legislative Analysis for House Bill 663 (2018)*, on file with the Healthcare Regulation Subcommittee.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**