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DRAFT; NOT YET EDITED; FOR COMMITTEE DISCUSSION

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Human Services to which was referred Senate Bill
3 No. 20 entitled “An act relating to establishing and regulating dental
4 therapists” respectfully reports that it has considered the same and
5 recommends that the House propose to the Senate that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

8 **Sec. 1. LEGISLATIVE FINDINGS**

9 This bill establishes and regulates a new category of oral health
10 practitioners: dental therapists. It is the intent of the General Assembly to do
11 so in order to increase access for Vermonters to oral health care, especially in
12 areas with a significant volume of low-income, uninsured, or underserved
13 patients.

14 Sec. 2. 26 V.S.A. chapter 12 is amended to read:

15 CHAPTER 12. DENTISTS, DENTAL THERAPISTS, DENTAL

16 HYGIENISTS, AND DENTAL ASSISTANTS

17 Subchapter 1. General Provisions

18 § 561. DEFINITIONS

19 As used in this chapter:

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- 1 (1) “Board” means the ~~board of dental examiners~~ Board of Dental
2 Examiners.
- 3 (2) “Director” means the ~~director of the office of professional regulation~~
4 Director of the Office of Professional Regulation.
- 5 (3) “Practicing dentistry” means an activity in which a person:
- 6 (A) undertakes by any means or method to diagnose or profess to
7 diagnose or to treat or profess to treat or to prescribe for or profess to prescribe
8 for any lesions, diseases, disorders, for deficiencies of the human oral cavity,
9 teeth, gingiva, maxilla, or mandible or adjacent associated structures;
- 10 (B) extracts human teeth or corrects malpositions of the teeth or jaws;
- 11 (C) furnishes, supplies, constructs, reproduces, or repairs prosthetic
12 dentures, bridges, appliances, or other structures to be used or worn as
13 substitutes for natural teeth or adjusts those structures, except on the written
14 prescription of a duly licensed dentist and by the use of impressions or casts
15 made by a duly licensed and practicing dentist;
- 16 (D) administers general dental anesthetics;
- 17 (E) administers local dental anesthetics, except dental hygienists as
18 authorized by ~~board~~ Board rule; or

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1 (F) engages in any of the practices included in the curricula of
2 recognized dental colleges.

3 (4) “Dental therapist” means an individual licensed to practice as a
4 dental therapist under this chapter.

5 (5) “Dental hygienist” means an individual licensed to practice as a
6 dental hygienist under this chapter.

7 ~~(5)~~(6) “Dental assistant” means an individual registered to practice as a
8 dental assistant under this chapter.

9 ~~(6)~~(7) “Direct supervision” means supervision by a licensed dentist who
10 is readily available at the dental facility for consultation or intervention.

11 (8) “General supervision” means:

12 (A) the direct or indirect oversight of a dental therapist by a dentist,
13 which need not be on-site; or

14 (B) the oversight of a dental hygienist by a dentist as prescribed by
15 Board rule in accordance with sections 582 and 624 of this chapter.

16 § 562. PROHIBITIONS

17 (a) No person may use in connection with a name any words, including
18 “Doctor of Dental Surgery” or “Doctor of Dental Medicine,” or any letters,

Comment [BAW1]:
HHS OK

Explanation: The term “general supervision” is already used re: DHs in § 582(3)(H) and § 624(b) of this chapter.

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1 signs, or figures, including the letters “D.D.S.” or “D.M.D.,” which imply that
2 a person is a licensed dentist when not authorized under this chapter.

3 (b) No person may practice as a dentist, dental therapist, or dental hygienist
4 unless currently licensed to do so under the provisions of this chapter.

5 (c) No person may practice as a dental assistant unless currently registered
6 under the provisions of this chapter.

7 (d) A person who violates this section shall be subject to the penalties
8 provided in 3 V.S.A. § 127.

9 * * *

10 § 565. DISPLAY OF LICENSE OR REGISTRATION

11 Every dentist, dental therapist, dental hygienist, and dental assistant shall
12 display a copy of his or her current license or registration at each place of
13 practice and in such a manner so as to be easily seen and read.

14 * * *

15 Subchapter 2. Board of Dental Examiners

16 § 581. CREATION; QUALIFICATIONS

17 (a) ~~The state board of dental examiners~~ State Board of Dental Examiners is
18 created and shall consist of:

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- 1 (1) six licensed dentists in good standing who have practiced in this state
2 State for a period of five years or more and are in active practice;
- 3 (2) one licensed dental therapist who has practiced in this State for a
4 period of at least three years immediately preceding appointment and is in
5 active practice;
- 6 (3) ~~two~~ one licensed dental hygienists hygienist who have has practiced
7 in this state State for a period of at least three years immediately preceding the
8 appointment and ~~are~~ is in active practice;
- 9 (4) one registered dental assistant who has practiced in this state State
10 for a period of at least three years immediately preceding the appointment and
11 is in active practice; and
- 12 (5) two members of the public who are not associated with the practice
13 of dentistry.
- 14 (b) Board members shall be appointed by the ~~governor~~ Governor pursuant
15 to 3 V.S.A. §§ 129b and 2004.
- 16 (c) ~~No A~~ member of the board may Board shall not be an officer or serve
17 on a committee of his or her respective state or local professional dental, dental
18 therapy, dental hygiene, or dental assisting organization, ~~nor shall any member~~

Comment [BAW2]: HHS OK with adding DT representation to the Board.
To do so, reduce DH membership by one in subdv. (3).
Eff. date of this amendment to (a) is 1/1/21, to allow the DH member to complete term. See eff. date section at end of draft.

HHS, please review:
What should be the min. practice qualification for the DT member? Three years to match DH and DA members?
See Sec. Y's transitional provision for the initial DT appointee's practice requirement.

Comment [BAW3]: HHS OK with adding dental therapy reference here.

Explanation: Since a DT would be added to the Board, prohibit service on a DT professional organization, as is provided for the other dental professionals.

Also, HHS OK with removing last phrase, since it is proposed to be removed via 2016's H.562 (OPR Bill), Sec. 16.

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1 ~~of the board be on the faculty of a school of dentistry, dental hygiene, or dental~~
2 ~~assisting.~~

3 * * *

4 § 584. UNPROFESSIONAL CONDUCT

5 The ~~board~~ Board may refuse to give an examination or issue a license to
6 practice dentistry, to practice as a dental therapist, or to practice dental hygiene
7 or to register an applicant to be a dental assistant and may suspend or revoke
8 any such license or registration or otherwise discipline an applicant, licensee,
9 or registrant for unprofessional conduct. Unprofessional conduct means the
10 following conduct and the conduct set forth in 3 V.S.A. § 129a by an applicant
11 or person licensed or registered under this chapter:

12 * * *

13 (2) rendering professional services to a patient if the dentist, dental
14 therapist, dental hygienist, or dental assistant is intoxicated or under the
15 influence of drugs;

16 * * *

17 (6) practicing a profession regulated under this chapter with a dentist,
18 dental therapist, dental hygienist, or dental assistant who is not legally
19 practicing within the state State or aiding or abetting such practice;

Comment [BAW4]: HHS OK with adding reference to DTs in the specific unprofessional conduct provisions, highlighted in yellow below.

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Subchapter 3A. Dental Therapists

§ 611. LICENSE BY EXAMINATION

(a) Qualifications for examination. To be eligible for examination for licensure as a dental therapist, an applicant shall:

(1) have attained the age of majority;

(2) be a licensed dental hygienist;

(3) be a graduate of a dental therapist educational program administered by an institution accredited by the Commission on Dental Accreditation to train ~~dentists, dental therapists, or dental hygienists;~~

(4) have successfully completed an emergency office procedure course approved by the Board; and

(4)(5) pay the application fee set forth in section 662 of this chapter and an examination fee established by the Board by rule.

(b) Completion of examination.

(1)(A) An applicant for licensure meeting the qualifications for examination set forth in subsection (a) of this section shall pass a comprehensive, competency-based clinical examination approved by the Board

Comment [BAW5]: HHS OK with requiring that CODA accreditation specifically be for training DTs.

Comment [BAW6]: HHS OK with requiring emergency office procedure course as a qualification for the exam.

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1 and administered independently of an institution providing dental therapist
2 education.

3 **(B)** An applicant shall also pass an examination testing the
4 applicant's knowledge of the Vermont ~~laws~~ statutes and rules relating to the
5 practice of dentistry approved by the Board.

6 (2) An applicant who has failed the clinical examination twice is
7 ineligible to retake the clinical examination until further education and training
8 are obtained as established by the Board by rule.

9 (c) The Board may grant a license to an applicant who has met the
10 requirements of this section.

11 § 612. LICENSE BY ENDORSEMENT

12 The Board may grant a license as a dental therapist to an applicant who:

13 (1) is currently licensed in good standing to practice as a dental therapist
14 in any jurisdiction of the United States or Canada that has licensing
15 requirements deemed by the Board to be at least substantially equivalent to
16 those of this State;

17 **(2)** has passed an examination testing the applicant's knowledge of the
18 Vermont statutes and rules relating to the practice of dentistry approved by the
19 Board.

Comment [BAW7]: HHS OK with clarifying "statutes" rather than "laws."

(Also, BAW added (A) and (B) subdivision designations for easier reading.)

Comment [BAW8]: HHS OK with requiring persons licensed by endorsement to take the Vermont-specific exam that normal licensees would be required to take. See § 611(b)(1)(B), above.

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1 (3) **has successfully completed an an emergency office procedure course**
2 **approved by the Board;**

3 (2)(4) **has met active practice requirements and any other requirements**
4 **established by the Board by rule; and**

5 (3)(5) **pays the application fee set forth in section 662 of this chapter.**

6 **§ 613. PRACTICE; SCOPE OF PRACTICE**

7 (a) **A person who provides oral health care services, including prevention,**
8 **evaluation, and assessment; education; palliative therapy; and restoration under**
9 **the general supervision of a dentist within the parameters of a collaborative**
10 **agreement as provided under section 614 of this subchapter shall be regarded**
11 **as practicing as a dental therapist within the meaning of this chapter.**

12 (b) ~~Services performed by a dental therapist may only be performed in~~
13 ~~practice settings or areas with a significant volume of low income, uninsured,~~
14 ~~or underserved patients, as shall be determined by the Department of Health, or~~
15 ~~in areas designated by the U.S. Department of Health and Human Services as~~
16 ~~Health Professional Shortage Areas for dental care. In addition to services~~
17 ~~permitted by the Board by rule, a~~ **A** dental therapist may perform the following
18 **oral health care services:**

Comment [BAW9]: HHS, please review:

Do you want to require an emergency office procedure course for persons licensed by endorsement?

This is already required for applicants for licensure by endorsement as dentists in [26 V.S.A. § 602\(a\)\(2\)](#) and for licensure by endorsement as dental hygienists in [26 V.S.A. § 622\(2\)](#).

Comment [BAW10]: HHS OK:

1) Remove initial geographic practice limitation in the first sentence (and therefore strike Sec. 4's sunset of this limitation and reference to it in the effective date section).

2) Do not permit Board to add on to DT services by rule in beginning of second sentence.

Comment [BAW11]: HHS, please review the re-ordering of these DT services in the following subdivisions.

In places where order was rearranged, **red strikethrough** shows the old number, and **yellow highlighting** shows the new proposed number.

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- 1 (1) Oral health instruction and disease prevention education, including
- 2 nutritional counseling and dietary analysis.
- 3 (2) Periodontal charting, including a periodontal screening examination.
- 4 (3) Exposing radiographs.
- 5 ~~(18)~~⁽⁴⁾ Oral evaluation and assessment of dental disease.
- 6 ~~(4)~~⁽⁵⁾ Dental prophylaxis.
- 7 ~~(34)~~⁽⁶⁾ Mechanical polishing.
- 8 ~~(6)~~⁽⁷⁾ Applying topical preventive or prophylactic agents, including
- 9 fluoride varnishes, antimicrobial agents, and pit and fissure sealants.
- 10 ~~(7)~~⁽⁸⁾ Pulp vitality testing.
- 11 ~~(8)~~⁽⁹⁾ Applying desensitizing medication or resin.
- 12 ~~(9)~~⁽¹⁰⁾ Fabricating athletic mouthguards.
- 13 ~~(30)~~⁽¹¹⁾ Suture removal.
- 14 ~~(14)~~⁽¹²⁾ Changing periodontal dressings.
- 15 ~~(31)~~⁽¹³⁾ Brush biopsies.
- 16 ~~(16)~~⁽¹⁴⁾ Administering local anesthetic.
- 17 ~~(10)~~⁽¹⁵⁾ Placement of temporary restorations.
- 18 ~~(13)~~⁽¹⁶⁾ Interim therapeutic restorations.
- 19 ~~(26)~~⁽¹⁷⁾ Placement of temporary **and preformed** crowns.

Comment [BAW12]: **HHS OK** with this clarification (3/31/16).
Change was made in accordance with ~~(27)~~⁽³²⁾.

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- 1 ~~(22)~~(18) Emergency palliative treatment of dental pain in accordance
2 with the other requirements of this subsection.
- 3 (19) Formulating an individualized treatment plan, including services
4 within the dental therapist's scope of practice and referral for services outside
5 the dental therapist's scope of practice.
- 6 ~~(32)~~(20) ~~Repairing~~ Minor repair of defective prosthetic devices.
- 7 ~~(33)~~(21) Recementing permanent crowns.
- 8 ~~(23)~~(22) Placement and removal of space maintainers.
- 9 ~~(5)~~(23) Prescribing, dispensing, and administering analgesics,
10 anti-inflammatories, and antibiotics, except Schedule II, III, or IV controlled
11 substances.
- 12 ~~(17)~~(24) Administering nitrous oxide.
- 13 ~~(11)~~(25) Fabricating soft occlusal guards, but not for treatment of
14 temporomandibular joint disorders.
- 15 ~~(12)~~(26) Tissue conditioning and soft reline.
- 16 ~~(15)~~(27) Tooth reimplantation and stabilization.
- 17 ~~(20)~~(28) Extractions of primary teeth.

Comment [BAW13]: HHS OK with clarifying that emergency palliative treatment must conform to the other limits of this subsection (3/30/16).

Comment [BAW14]: HHS OK with this limitation (3/31/16).

Comment [BAW15]: HHS OK with prohibiting these controlled substances, in accordance with the Comm'r of Health's recommendation (3/30/16).

Comment [BAW16]: HHS OK with this limitation (3/30/16).

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1 ~~(21)~~(29) Nonsurgical extractions of periodontally diseased permanent
2 teeth with tooth mobility of +3. A dental therapist shall not extract a tooth if it
3 is unerupted, impacted, fractured, or needs to be sectioned for removal.

4 ~~(24)~~(30) Cavity preparation.

5 ~~(25)~~(31) Restoring primary and permanent teeth, not including
6 permanent tooth crowns, bridges, veneers, or denture fabrication.

7 ~~(27)~~(32) Preparation and placement of preformed crowns for primary
8 teeth.

9 ~~(28)~~(33) Pulpotomies on primary teeth.

10 ~~(29)~~(34) Indirect and direct pulp capping on primary and permanent
11 teeth.

12 § 614. COLLABORATIVE AGREEMENT

13 (a) Before a dental therapist may enter into his or her first collaborative
14 agreement, he or she shall:

15 (1) complete 1,000 hours of direct patient care using dental therapy
16 procedures under the direct supervision of a dentist; and

17 (2) receive a certificate of completion signed by that supervising dentist
18 that verifies the dental therapist completed the hours described in
19 subdivision (1) of this subsection.

Comment [BAW17]: HHS OK with this limitation (3/31/16)

Comment [BAW18]: HHS OK with this limitation (3/31/16).

Change was made in accordance with ~~(26)~~(17).

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1 (b) In order to practice as a dental therapist, a dental therapist shall enter
2 into a written collaborative agreement with a dentist. The agreement shall
3 include:

4 (1) practice settings where services may be provided and the populations
5 to be served;

6 (2) any limitations on the services that may be provided by the dental
7 therapist, including the level of supervision required by the supervising dentist;

8 (3) age- and procedure-specific practice protocols, including case
9 selection criteria, assessment guidelines, and imaging frequency;

10 (4) a procedure for creating and maintaining dental records for the
11 patients that are treated by the dental therapist;

12 (5) a plan to manage medical emergencies in each practice setting where
13 the dental therapist provides care;

14 (6) a quality assurance plan for monitoring care provided by the dental
15 therapist, including patient care review, referral follow-up, and a quality
16 assurance chart review;

17 (7) protocols for prescribing, administering, and dispensing medications,
18 including the specific conditions and circumstances under which these
19 medications may be prescribed, dispensed, and administered.

Comment [BAW19]: HHS OK with this addition (3/31/16).

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1 (8) criteria relating to the provision of care to patients with specific
2 medical conditions or complex medication histories, including requirements
3 for consultation prior to the initiation of care;

4 (9) ~~supervision~~ criteria **for the supervision** of dental assistants and dental
5 hygienists; ~~and~~

6 (10) a plan for the provision of clinical resources and referrals in
7 situations that are beyond the capabilities of the dental therapist.

8 (c)(1) The supervising dentist shall ~~accept responsibility~~ **be professionally**
9 **responsible and legally liable** for all services authorized and performed by the
10 dental therapist pursuant to the collaborative agreement.

11 (2) A supervising dentist shall be licensed and practicing in Vermont.

12 (3) A supervising dentist is limited to entering into a collaborative
13 agreement with no more than two dental therapists at any one time.

14 (d)(1) A collaborative agreement shall be signed and maintained by the
15 supervising dentist and the dental therapist.

16 (2) A collaborative agreement shall be reviewed, updated, and submitted
17 to the Board on an annual basis ~~or~~ **and** as soon as a change is made to the
18 agreement.

19 § 615. APPLICATION OF OTHER LAWS

Comment [BAW20]: **HHS OK** with this rewording (3/31/16)

Comment [BAW21]: **HHS OK** with using both terms (3/31/16).

Pursuant to the SCOV's In re Porter, 192 Vt. 601 (2012):

“Professionally responsible” refers to unprofessional conduct, in this case meaning that the supervising dentist could be found to have committed unprofessional conduct if the DT committed unprofessional conduct while performing a service pursuant to the collaborative agreement.

“Legally liable” refers to tort liability, in this case meaning that the supervising dentist could be found to be legally liable for a tort committed by the DT while performing a service pursuant to the collaborative agreement.

Comment [BAW22]: **HHS OK** with this correction (3/31/16).

Effect is that collaborative agreement must be submitted to the Board at least annually, but **also** as soon as a change is made to it.

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1 (a) A dental therapist authorized to practice under this chapter shall not be
2 in violation of section 562 of this chapter as it relates to the unauthorized
3 practice of dentistry if the practice is authorized under this chapter and under
4 the collaborative agreement.

5 (b) A dentist who permits a dental therapist to perform a dental service
6 other than those authorized under this chapter ~~or by the Board by rule~~ or any
7 dental therapist who performs an unauthorized service shall be in violation of
8 section 584 of this chapter.

9 § 616. USE OF DENTAL HYGIENISTS AND DENTAL ASSISTANTS

10 (a) A ~~licensed~~ dental therapist may supervise dental assistants and dental
11 hygienists directly to the extent permitted in the collaborative agreement.

12 (b) At any one practice setting, a ~~licensed~~ dental therapist may have under
13 his or her direct supervision no more than a total of two assistants, ~~or~~
14 hygienists, ~~or~~ combination thereof.

15 § 617. REFERRALS

16 (a) The supervising dentist is responsible for arranging for another dentist
17 or specialist to provide any necessary services needed by a patient that are
18 beyond the scope of practice of the dental therapist and which the supervising
19 dentist is unable to provide.

Comment [BAW23]: **HHS OK** with this correction (3/31/16) since HHS agreed to **not** allow Board by rule to further enlarge a DT's scope of practice by striking that authority in § 613(b).

Comment [BAW24]: **HHS OK** (3/31/16):

1) Striking "licensed" as duplicative, since under § 561(4), "dental therapist" means an individual licensed under this chapter.

2) In (b), using "or" to be more easily-readable.

Comment [BAW25]: **HHS, please review** this issue of referral vs. arranging for another professional to provide services.

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1 professional education which shall include an emergency office procedures
2 course during the two-year licensing period preceding renewal.

3 (f) Dental hygienists. To renew a license, a dental hygienist shall meet
4 active practice requirements established by the ~~board~~ Board by rule and
5 document completion of no fewer than 18 hours of ~~board-approved~~
6 Board-approved continuing professional education which shall include an
7 emergency office procedures course during the two-year licensing period
8 preceding renewal.

9 ~~(f)~~(g) Dental assistants. To renew a registration, a dental assistant shall
10 meet the requirements established by the ~~board~~ Board by rule.

11 § 662. FEES

12 (a) Applicants and persons regulated under this chapter shall pay the
13 following fees:

14 (1) Application

15 (A) Dentist \$ 225.00

16 (B) Dental therapist \$ 185.00

17 (C) Dental hygienist \$ 150.00

18 ~~(C)~~(D) Dental assistant \$ 60.00

19 (2) Biennial renewal

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- | | | |
|---|-------------------------------------|------------------|
| 1 | (A) Dentist | \$ 355.00 |
| 2 | (B) <u>Dental therapist</u> | \$ <u>225.00</u> |
| 3 | (C) <u>Dental hygienist</u> | \$ 125.00 |
| 4 | (C) (D) Dental assistant | \$ 75.00 |

5 (b) The licensing fee for a dentist, dental therapist, or dental hygienist or
6 the registration fee for a dental assistant who is otherwise eligible for licensure
7 or registration and whose practice in this ~~state~~ State will be limited to
8 providing pro bono services at a free or reduced-fee clinic or similar setting
9 approved by the ~~board~~ Board shall be waived.

10 * * *

11 Sec. 3. BOARD OF DENTAL EXAMINERS; REPORT ON GEOGRAPHIC
12 DISTRIBUTION OF DENTAL THERAPISTS

13 Two years after the graduation of the first class of dental therapists from a
14 Vermont accredited program, the Department of Health, in consultation with
15 the Board of Dental Examiners shall report to the Senate Committees on
16 Health and Welfare and on Government Operations and the House Committees
17 on Health Care and on Government Operations regarding:

18 (1) the geographic distribution of licensed dental therapists practicing in
19 this State;

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1 (2) the geographic areas of this State that are underserved by licensed
2 dental therapists; and

3 (3) recommended strategies to promote the practice of licensed dental
4 therapists in underserved areas of this State, particularly those areas that are
5 rural in nature and have high numbers of people living in poverty.

6

7 **Sec. X. BOARD OF DENTAL EXAMINERS; REQUIRED RULEMAKING**

8 The Board of Dental Examiners shall adopt the rules and perform all other
9 acts necessary to implement the provisions of those sections.

10

11 **Sec. Y. TRANSITIONAL PROVISION; BOARD OF DENTAL**

12 **EXAMINERS; INITIAL DENTAL THERAPIST MEMBER**

13 Notwithstanding the provision of 26 V.S.A. § 581(a)(2) in Sec. 1 of this act

14 that requires the dental therapist member of the Board of Dental Examiners to

15 have practiced in this State for a period of at least three years immediately

16 preceding appointment, the initial dental therapist appointee may fulfill this

17 practice requirement if he or she has practiced as a licensed dental hygienist in

18 this State for a period of at least three years immediately preceding

Comment [BAW26]: HHS, please review.

This is re: the new DT member of the Board, and how long s/he must have practiced as a DT before becoming a Board member.

Sec. 1's § 581(a)(2) currently says the DT Board member must have three years of experience (unless HHS wants to alter that requirement).

Since this DT Board member requirement is scheduled to take effect on 1/1/21 – and people wanting to become DTs would still have to obtain the required education, which is still being developed – it does not seem possible for the initial DT member to have this experience.

Therefore, this transitional provision would allow that initial DT Board member to substitute his/her experience as a dental hygienist in order to meet this practice requirement.

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DRAFT; NOT YET EDITED; FOR COMMITTEE DISCUSSION

1 ~~appointment~~, so long as that appointee is a licensed dental therapist in active
2 ~~practice in this State at the time of appointment.~~

3

4 Sec. 5. EFFECTIVE DATES

5 This act shall take effect on passage.

6

7

8

9

10 (Committee vote: _____)

11

12

Representative _____

13

FOR THE COMMITTEE