

MINNESOTA HEALTH-RELATED LICENSING BOARDS

COUNCIL OF HEALTH BOARDS



Review of Legislative Request:
Health Occupation Review

Dental Assistant
(HF953/SF141)

January 2004

Minnesota Health Licensing Boards

Council of Health Boards

2829 University Avenue SE, Suite 440, Minneapolis MN 55414

Executive Directors

January 16, 2004

Shirley Brekken
Board of Nursing

House/Senate Health and Human Services Policy Committee Chairs
State Capitol
St. Paul, Minnesota 55414

Robert Butler
Board of Marriage &
Family Therapy

Dear Ms. Greenlaw Benton:

Mary Hedges
Emergency Medical
Services Regulatory Board

The Council of Health Boards (CHB) is a joint committee with representation from each of the state's independent health-related Boards through their Executive Directors and a designated Board member. The Council was asked by the Legislature to review two applications for licensure from health professions, one of which is emerging, and one of which is currently subject to registration. This review was undertaken pursuant to Minnesota Statutes §214.025, with a request to report back to the appropriate committees. The charge to the CHB was to review a proposal from Dental Assistants seeking a change in regulatory status, from registration to licensure; and to review a proposal to license an emerging occupation, that of denturistry.

David Holmstrom
Board of Pharmacy

Keith Hovland
Board of Podiatric
Medicine

John King
Board of Veterinary
Medicine

The application materials and subcommittee review of the applications are attached. The findings were reviewed and approved by the entire Council of Health Boards. The following summarizes the Council of Health Board findings for these two proposals.

Robert Leach
Board of Medical Practice

Stephanie Lunning
Board of Physical Therapy

Frank Merriman
Board of Social Work

1. **Dental Assistant Licensure.** Dental assistants are currently regulated by the Minnesota Board of Dentistry. The proponents of the legislation at issue request that dental assistants be regulated through licensure rather than registration. Approval of this change would constitute a technical change to the current regulatory scheme, which its proponents assert is important for regulatory consistency and appropriate recognition of the profession. The Council also found no fiscal impact if such a change occurred.

Laurie Mickelson
Board of Dietetics &
Nutrition Practice; and
Board of Optometry

Marshall Shragg
Board of Dentistry

Randy Snyder
Board of Nursing Home
Administrators

Larry Spicer
Board of Chiropractic

Pauline Walker-Singleton
Board of Psychology

The proponents indicate that a regulatory change to licensure rather than registration is appropriate due to the scope of practice of dental assistants which has included expanded responsibilities; standardization and increase of educational requirements; and the current existence of continuing education requirements (which would not change if licensure was approved). The proponents also raise the possibility of increased access to dental care through greater recruitment and retention of licensed (rather than registered) dental assistants.

The Council of Health Boards concluded that the documentation submitted was supportive of the proposal to move regulation of dental assistants from registration to licensure, and in particular, notes the technical nature of the change. Based on the information submitted, it appears that if the occupation of dental assistant were seeking initial regulation as an emerging profession, the appropriate level of regulation would be licensure under Minnesota's

regulatory scheme. However, the occupation of dental assistant is not an emergent one; rather, it is one whose functions have expanded beyond what appears to have been anticipated when the occupation was initially regulated via registration.

2. **Denturist Licensure.** The occupation of denturistry is not currently regulated in Minnesota. The proponent of licensure seeks to establish a licensing system for denturistry as an emerging profession. The proponent of this legislation is a private citizen, and does not represent any national nor local organization of the occupation. The materials submitted did not indicate the extent to which the occupation is represented in Minnesota. The Council concluded that the documentation submitted does not support the licensure proposal, and no alternatives to licensure were presented. The subcommittee was also not provided Minnesota-specific information regarding the potential need for services, nor does the information provided indicate that there is a ready population of denturists available in Minnesota.

The Council did request that regulatory alternatives to the current proposal be noted, and these alternatives include licensed independent practice of denturistry; autonomous, supervised practice of denturistry; dependent, supervised practice of denturistry; and maintaining the status quo. Each of these alternatives has potential positive and negative aspects, as well as additional regulatory elements which would be required. The Council did not consider these alternatives in depth, in that they were not submitted by the proponent. However, among the considerations in entering into any alternative regarding denturistry are the need for scope of practice determinations; designation of an accreditation agency; educational content of training programs; prescription authority; and testing development. Factors which may affect legislative decision-making regarding denturists include: consumer access to services; expense of regulation in proportion to number of practitioners; consumer safety; supervision provided; regulatory coordination; costs and potential liability.

The Council of Health Boards appreciates this opportunity for input on the regulation of these occupations, and is committed to providing additional assistance as requested by the Legislature in these matters.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Michael M. Gibson".

Michael M. Gibson
Chair

cc: Senator Becky Lourey
Senator Sheila Kiscaden
Senator Linda Berglin
Senator Jim Vickerman
Representative Lynda Boudreau
Representative Jim Abler
Representative Bruce Anderson
Committee Member Wil Wilson

Health Licensing Boards:

Psychology Executive Director Pauline Walker-Singleton
Dentistry Executive Director Marshall Shragg
Human Resources Officer Cindy Greenlaw Benton
Nursing Home Examiner Executive Director Randy Snyder

**Review of Legislative Request:
Health Occupation Review**

**Licensure of Dental Assistants
(HF 953 / SF 141)**

Application submitted by:

- Kathy Zwieg, RDA (Legislative Chair, Minnesota Dental Assistants Association)
- Teri Morin, RDA (Consultant to the Board of Dentistry, Minnesota Dental Assistants Association)
- Natalie Kaweckyj, RDA, FADAA (Past President, Minnesota Dental Assistants Association)

Review Panel for the Council of Health Boards:

- Pauline Walker-Singleton, Executive Director, Board of Psychology
- James Peterson, Board of Psychology
- Joann Schulman, DVM, Minnesota Board of Veterinary Medicine
- John King, DVM, Executive Director, Board of Veterinary Medicine
- Marshall Shragg, Executive Director, Board of Dentistry
- Robert Butler, Executive Director, Board of Marriage and Family Therapy
- Gerald McCoy, Public Member, Board of Dentistry

Staff to the Subcommittee:

Cindy Greenlaw Benton
Health-Related Licensing Boards
Administrative Services Unit

Public meeting date:

November 13, 2003

Review Comments:

The subcommittee of the Council of Health Boards was charged with the responsibility of reviewing the application to license dental assistants in Minnesota. Currently, dental assistants are registered. This proposal is advocated for, and represented by, the Minnesota Dental Assistants Association. This subcommittee has assessed in particular the degree to which the responses to the Council's questions supported the application for establishing licensure. The panel reviewed the application through means of a ratings worksheet. Ratings were based upon the materials provided with the application, with limited reliance on knowledge of or assumptions about the professions by the

subcommittee. The worksheets contained 60 items in the general topic areas Description of the Occupation; Safety and Efficacy; Government and Private Sector Recognition; Education and Training; Practice Model & Viability of Profession; and Regulatory Framework. The proposal submitted by the proponent for Denturist Licensure was reviewed according to these 60 items for thoroughness of response and provision of information.

The Council reviewed the proposal with a view toward providing the Legislature with an objective evaluation of information regarding the proposal and to describe what areas, if any, were supportive of licensure of the occupation, and which were not. The subcommittee also reviewed this proposal through the inquiry of whether there is unquestionably a basis for regulating the profession and whether the occupation of dental assistant and its practice is clearly defined and without grey areas. The subcommittee met to review the worksheets and to discuss the proposal on November 13, 2003. The subcommittee determined that it was appropriate to request additional information regarding the proposal from its proponents. A letter requesting additional information was sent to the proponents November 14, 2003, and a response was submitted November 25, 2003. The response was forwarded to subcommittee members for comment and review.

The purpose of review by the Council of Health Boards is to determine whether the proponent(s) have responded thoroughly and appropriately to the committee's inquiries, sufficient to provide a baseline for legislative review of the proposal, and to offer additional avenues for possible legislative inquiry and research.

In general, this subcommittee found that the initial responses to the questionnaire regarding the following areas were fairly well developed and were quite responsive to potential concerns regarding licensure: Description of the Occupation; Government and Private Sector Recognition; Education and Training; and Regulatory Framework. Some additional information was requested in regard to specific questions in these areas.

However, in some areas of the questionnaire, the subcommittee found that additional information was required to supplement the initial response in order for the subcommittee to review the proposal fully. These two areas were: (1) Safety and Efficacy, and (2) Practice Model and Viability of Profession. The occupation's supplementary information addressed these issues.

A subtext of any application for change in a regulatory scheme is the issue of how the regulatory system serves to protect the public safety. Overall, the information provided within the questionnaire was not sufficient for the subcommittee to determine such a rationale in this instance. However, the proponents of the legislative proposal to license dental assistants offered important justifications for licensure rather than registration: (1) Additional expanded responsibilities assigned to dental assistants, including expansion of duties through legislation; (2) Consistency of occupational regulatory framework for health professions; (3) Increased access to dental services because of increased retention of dental assistants who are regulated at the appropriate level of regulation.

A. Description of the Occupation

The subcommittee found that the occupation adequately described itself, with the minor exception of explicitly describing its differences from and similarities to other health occupations, systems and modalities insofar as it has an impact on the appropriate level of regulation. Subcommittee members noted that a comparison with Registered Nurses (RNs) might be a comparable starting point, though it also appears that the licensure of RNs varies in several important ways from that of proposed licensure of Dental Assistants. In supplementary materials, the proponents stated that dental health occupations most closely follow the modality of the medical profession (e.g., physicians and physicians' assistants) in terms of matters such as supervision and delegation of functions.

B. Safety and Efficacy

In general, the matter of safety and efficacy appeared initially to not be fully addressed, and particularly not addressed in terms of research studies that could establish important information regarding the occupation. The subcommittee found that the consequences to the consumer that result from incompetence or unethical practice or omission of appropriate practice were addressed sufficiently. In its supplementary materials, the proponents cited a number of studies regarding the efficacy of services provided by dental assistants, including in the military. Two national dental assistants' organizations are currently undertaking a project to define and rank competencies and efficacy.

The occupation's measures for safety and efficacy were not clearly described, and findings of research studies pertaining to safety and risk of harm to patients from the care approaches, treatments and modalities used by members of the occupation, were lacking. The subcommittee was unable to determine whether such research is unavailable, or was simply deleted. However, supplementary materials indicate that such research is underway by national organizations. The proponents note that Minnesota has demonstrated its recognition and need for regulation of the profession, through its inclusion as an entity regulated by the Minnesota Board of Dentistry by legislative action (dental assistants are the largest group regulated by the Board).

Similarly, the proposal does not include comprehensive research regarding the efficacy and effectiveness of the care approaches, treatments and modalities used by members of the occupation; such information appears not to be currently readily available, and may be a subject for legislative inquiry.

In reviewing the proposal, the subcommittee noted a stated commitment to research on the part of this occupation, as well to continuing education and development of competency of dental assistants.

C. Government and Private Sector Recognition

Minimum qualifications for entry into the occupation were fully described. The subcommittee was unable to reconcile the general proposal and responses to this matter made by the proponents with the response to question 29.: “If this occupation is regulated in other jurisdictions, is there third-party reimbursement for the services provided by the occupation in those jurisdictions?” The following answer was given in response to this question: “We are not aware that dental assisting is regulated in other jurisdictions.” Because the remainder of the proposal freely discusses the regulatory schemes for dental assistants in jurisdictions other than Minnesota, it appears that this question may not have been understood by the proponents. The committee did note that other jurisdictions do regulate dental assistants. At the same time, the response did not answer the question of third party reimbursement for dental assistants; the Legislature may wish to further inquire into this matter. In its supplementary response, the proponents expounded on this issue: According to the proponents, third-party reimbursement is paid directly to the dentist / practitioner. Dental assistants currently do not seek to function as independent practitioners, and the legislation as proposed does not anticipate such independent practice.

D. Education and Training

It was of interest to the subcommittee that as the legislation is currently formulated, if it were to be enacted, some dental assistants could be licensed without having received any proscribed occupation-related formal education (i.e., practitioners from out of state could be licensed upon passing required examinations). Additionally, as described by the proponents, educational requirements for dental assistants do not appear to be standard across the United States. The subcommittee found that the answers to the questionnaire regarding education and training were descriptive and specific.

E. Practice Model & Viability of Profession

This proposal is offered as a means of potentially increasing the number of practitioners in the dental assistant occupation. The subcommittee was unable to determine from the responses, how licensure would change the number of practitioners in that the current requirements for registration are the same as those proposed should be the occupation become licensed. In its supplementary response, the proponents noted the existence of research indicating that an appropriate level of regulation may increase the numbers of dental assistance, and increase the retention of dental assistants, thus providing greater access to oral health care. This may be a matter for additional research or legislative inquiry. Available information might include documents that establish that longevity in the profession increase, or entrants to the position increase, upon changing the credential required for dental assistants from registration to licensure.

The proponents have not provided detailed information regarding its efforts to ensure that patient care is culturally appropriate; it is uncertain whether similar results might be found in other health occupations, and may be a topic for legislative interest.

F. Regulatory Framework

Minnesota has previously established a regulatory framework for health occupations; were the occupation of dental assistant to be brought before the legislature today as a new occupation, it is conceivable that the initial proposal would be a request for licensure rather than the request for registration as an initial regulatory scheme for dental assistants. A review of the questionnaire indicates the proponents' position that they are currently subject to the requirements that would be imposed by licensure, thus making licensure the appropriate level of regulation; the Council also noted that dental assistants are regulated as licensees as opposed to registrants. Licensure is a high standard; this legislature may wish to address the overall approach to health regulation in light of possible further requests for licensure for health occupation.

The legislature may want to review this legislative proposal in terms of providing consistency in its overall approach to health occupation regulation.

The proposal to change the level of regulation for this profession is not a matter of substantive change; rather, it is a technical modification designed to provide an appropriate level of regulation consistent with Minnesota's overall health occupation regulatory system. Additionally, the Council found that there is no fiscal impact in making this regulatory change.

Based on materials submitted, the subcommittee identified the following alternatives for regulation of dental assistants: (1) Retain the current system of registration; (2) Change the level of regulation from registration to licensure regarding dental assistant licensure. In light of the technical nature of the change to licensure in this instance, the subcommittee did not identify elements that would have a negative impact on public health and safety or to the occupation if the occupation were to be licensed, nor did it identify additional alternatives to either licensure or registration.