

# Senate Bill 227

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## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs Oregon Board of Dentistry to issue certificates to dental therapists to perform certain dental services.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to dental therapists; creating new provisions; amending ORS 679.010, 679.020, 679.025,  
3 679.253 and 680.150; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 and 3 of this 2011 Act are added to and made a part of ORS 680.010**  
6 **to 680.205.**

7 **SECTION 2. (1) Upon application accompanied by the fee established by the Oregon Board**  
8 **of Dentistry, the board shall issue a certificate to practice as a dental therapist to an appli-**  
9 **cant who:**

10 (a) **Holds a valid, unrestricted dental hygiene license;**

11 (b) **Holds a dental therapist certificate issued by a dental therapist educational program**  
12 **approved by the board;**

13 (c) **Presents documentation satisfactory to the board of completion of coursework and**  
14 **training necessary to provide each of the dental therapist services permitted under section**  
15 **3 of this 2011 Act;**

16 (d) **Passes an examination approved by the board;**

17 (e) **Presents proof of current professional liability insurance coverage approved by the**  
18 **board; and**

19 (f) **Presents documentation satisfactory to the board of completion of an emergency life**  
20 **support course for health professionals, including cardiopulmonary resuscitation, from an**  
21 **agency or educational institution approved by the board.**

22 (2) **A certificate issued pursuant to subsection (1) of this section expires two years after**  
23 **the date of issuance unless renewed on or before that date by:**

24 (a) **Payment of the renewal fee established by the board;**

25 (b) **Submission to the board of satisfactory evidence of completion of at least 40 hours**  
26 **of continuing education directly related to clinical patient care or the practice of dental**  
27 **public health; and**

28 (c) **Presentation to the board of proof of professional liability coverage approved by the**  
29 **board.**

30 (3) **The board may refuse to issue or renew a dental therapist certificate or may suspend**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 or revoke a dental therapist certificate if the applicant or certificate holder:

2 (a) Has been convicted of an offense or been disciplined by a dental licensing body for an  
3 offense that bears, in the judgment of the board, a demonstrable relationship to the ability  
4 of the applicant or certificate holder to practice as a dental therapist in accordance with the  
5 provisions of this chapter or chapter 679; or

6 (b) Has falsified an application for a certificate.

7 (4) The board may discipline a dental therapist for any cause described under ORS 679.140  
8 or 679.170.

9 **SECTION 3.** (1) A person who holds a dental therapist certificate issued under section 2  
10 of this 2011 Act may perform the following services without the supervision of a dentist:

11 (a) All services within the scope of practice of dental hygiene.

12 (b) All services within the scope of practice of a limited access permit dental hygienist;

13 (c) Dental radiographs;

14 (d) Pulp vitality tests;

15 (e) Dental prophylaxis;

16 (f) Full mouth debridement;

17 (g) Providing, dispensing or administering fluoride, fluoride varnish, antimicrobial sol-  
18 utions for mouth rinsing and other non-systemic antimicrobial agents;

19 (h) Prescribing or dispensing prophylactic antibiotics for total joint replacement patients  
20 and patients at risk for infective endocarditis;

21 (i) Prescribing or dispensing nonnarcotic analgesics for pain management;

22 (j) Local anesthesia;

23 (k) Nitrous oxide inhalation sedation, if the dental therapist has a permit to administer  
24 nitrous oxide required by the board under ORS 679.250;

25 (L) Applying dental sealants;

26 (m) Temporary soft relines of complete dentures for tissue conditioning; and

27 (n) Brush biopsies.

28 (2) A person who holds a dental therapist certificate issued under section 2 of this 2011  
29 Act may perform the following services when authorized to do so by a collaborating dentist  
30 licensed under ORS chapter 679:

31 (a) Interim therapeutic restorations for caries stabilization;

32 (b) Space maintainers;

33 (c) Cavity preparation and direct restoration classes I through V;

34 (d) Preformed crowns;

35 (e) Pulpotomies on primary teeth;

36 (f) Nonsurgical extractions of primary teeth and periodontally diseased permanent teeth  
37 with class III mobility; and

38 (g) Final impressions.

39 **SECTION 4.** ORS 679.010 is amended to read:

40 679.010. As used in this chapter and ORS 680.010 to 680.205, unless the context requires other-  
41 wise:

42 [(1) "Board" means the Oregon Board of Dentistry.]

43 [(2)] (1) "Dental assistant" means a person who, under the supervision of a dentist, renders as-  
44 sistance to a dentist, dental hygienist, dental technician or another dental assistant or renders as-  
45 sistance under the supervision of a dental hygienist providing dental hygiene.

1        [(3)] (2) “Dental hygiene” means that portion of dentistry that includes the rendering of educa-  
 2        tional, preventive and therapeutic dental services and diagnosis and treatment planning for such  
 3        services. “Dental hygiene” includes, but is not limited to, scaling, root planing, curettage, the ap-  
 4        plication of sealants and fluoride and any related intraoral or extraoral procedure required in the  
 5        performance of such services.

6        [(4)] (3) “Dental hygienist” means a person who, under the supervision of a dentist, practices  
 7        dental hygiene.

8        [(5)] (4) “Dental technician” means [that] a person who, at the authorization of a dentist, makes,  
 9        provides, repairs or alters oral prosthetic appliances and other artificial materials and devices which  
 10       are returned to a dentist and inserted into the human oral cavity or which come in contact with its  
 11       adjacent structures and tissues.

12       **(5) “Dental therapist” means a person who holds a dental therapist certificate issued**  
 13       **under section 2 of this 2011 Act.**

14       (6) “Dentist” means a person who may perform any intraoral or extraoral procedure required  
 15       in the practice of dentistry.

16       (7) “Dentistry” means the healing art which is concerned with the examination, diagnosis,  
 17       treatment planning, treatment, care and prevention of conditions within the human oral cavity and  
 18       maxillofacial region and conditions of adjacent or related tissues and structures. The practice of  
 19       dentistry includes but is not limited to the cutting, altering, repairing, removing, replacing or repo-  
 20       sitioning of hard or soft tissues and other acts or procedures as determined by the board and in-  
 21       cluded in the curricula of dental schools accredited by the Commission on Dental Accreditation of  
 22       the American Dental Association, post-graduate training programs or continuing education courses.

23       (8) “Direct supervision” means supervision requiring that a dentist diagnose the condition to be  
 24       treated, that a dentist authorize the procedure to be performed, and that a dentist remain in the  
 25       dental treatment room while the procedures are performed.

26       (9) “General supervision” means supervision requiring that a dentist authorize the procedures,  
 27       but not requiring that a dentist be present when the authorized procedures are performed. The  
 28       authorized procedures may also be performed at a place other than the usual place of practice of  
 29       the dentist.

30       (10) “Indirect supervision” means supervision requiring that a dentist authorize the procedures  
 31       and that a dentist be on the premises while the procedures are performed.

32       (11) “Limited access permit dental hygienist” means a dental hygienist who renders dental hy-  
 33       giene services in accordance with ORS 680.205 as authorized by a limited access permit issued by  
 34       the board pursuant to ORS 680.200.

35       (12) “State” means any state or territory of the United States and the District of Columbia.

36       **SECTION 5.** ORS 679.020 is amended to read:

37       679.020. (1) A person may not practice dentistry without a license.

38       (2) Only a person licensed as a dentist by the Oregon Board of Dentistry may own, operate,  
 39       conduct or maintain a dental practice, office or clinic in this state.

40       (3) The restrictions of subsection (2) of this section, as they relate to owning and operating a  
 41       dental office or clinic, do not apply to a dental office or clinic owned or operated by any of the  
 42       following:

43       (a) A labor organization as defined in ORS 243.650 and 663.005 (6), or to any nonprofit organ-  
 44       ization formed by or on behalf of such labor organization for the purpose of providing dental ser-  
 45       vices. Such labor organization must have had an active existence for at least three years, have a

1 constitution and bylaws, and be maintained in good faith for purposes other than providing dental  
2 services.

3 (b) The School of Dentistry of the Oregon Health and Science University.

4 (c) Institutions of higher education listed in ORS 352.002.

5 (d) Local governments.

6 (e) Institutions or programs accredited by the Commission on Dental Accreditation of the  
7 American Dental Association to provide education and training.

8 (f) Nonprofit corporations organized under Oregon law to provide dental services to rural areas  
9 and medically underserved populations of migrant, rural community or homeless individuals under  
10 42 U.S.C. 254b or 254c or health centers qualified under 42 U.S.C. 1396d(l)(2)(B) operating in com-  
11 pliance with other applicable state and federal law.

12 (g) Nonprofit charitable corporations as described in section 501(c)(3) of the Internal Revenue  
13 Code and determined by the Oregon Board of Dentistry as providing dental services by volunteer  
14 licensed dentists to populations with limited access to dental care at no charge or a substantially  
15 reduced charge.

16 (4) For the purpose of owning or operating a dental office or clinic, an entity described in sub-  
17 section (3) of this section must:

18 (a) Name an actively licensed dentist as its dental director, who shall be subject to the pro-  
19 visions of ORS 679.140 in the capacity as dental director. The dental director, or an actively licensed  
20 dentist designated by the director, shall have responsibility for the clinical practice of dentistry,  
21 which includes, but is not limited to:

22 (A) Diagnosis of conditions within the human oral cavity and its adjacent tissues and structures.

23 (B) Prescribing drugs that are administered to patients in the practice of dentistry.

24 (C) The treatment plan of any dental patient.

25 (D) Overall quality of patient care that is rendered or performed in the practice of dentistry.

26 (E) Supervision of dental hygienists, dental assistants or other personnel involved in direct pa-  
27 tient care and the authorization for procedures performed by them in accordance with the standards  
28 of supervision established by statute or by the rules of the board.

29 (F) Other specific services within the scope of clinical dental practice.

30 (G) Retention of patient dental records as required by statute or by rule of the board.

31 (H) Ensuring that each patient receiving services from the dental office or clinic has a dentist  
32 of record.

33 (b) Maintain current records of the names of licensed dentists who supervise the clinical activ-  
34 ities of dental hygienists, dental assistants or other personnel involved in direct patient care utilized  
35 by the entity. The records must be available to the board upon written request.

36 (5) Subsections (1) and (2) of this section do not apply to a:

37 (a) Limited access permit dental hygienist who renders services authorized by a limited access  
38 permit issued by the board pursuant to ORS 680.200.

39 **(b) Dental therapist who renders services authorized by section 3 of this 2011 Act.**

40 (6) Nothing in this chapter precludes a person or entity not licensed by the board from:

41 (a) Ownership or leasehold of any tangible or intangible assets used in a dental office or clinic.  
42 These assets include real property, furnishings, equipment and inventory but do not include dental  
43 records of patients related to clinical care.

44 (b) Employing or contracting for the services of personnel other than licensed dentists.

45 (c) Management of the business aspects of a dental office or clinic that do not include the clin-

1 ical practice of dentistry.

2 (7) If all of the ownership interests of a dentist or dentists in a dental office or clinic are held  
3 by an administrator, executor, personal representative, guardian, conservator or receiver of the es-  
4 tate of a former shareholder, member or partner, the administrator, executor, personal represen-  
5 tative, guardian, conservator or receiver may retain the ownership interest for a period of 12 months  
6 following the creation of the ownership interest. The board shall extend the ownership period for  
7 an additional 12 months upon 30 days' notice and may grant additional extensions upon reasonable  
8 request.

9 **SECTION 6.** ORS 679.025 is amended to read:

10 679.025. (1) *[It shall be unlawful for any]* **A** person *[not otherwise authorized by law to]* **may not**  
11 practice dentistry or purport to be a dentist *[without]* **unless the person holds** a valid license to  
12 practice dentistry issued by the Oregon Board of Dentistry.

13 (2) The requirements of this section *[shall]* **do** not apply to:

14 (a) Dentists licensed in another state making a clinical presentation sponsored by a bona fide  
15 dental society or association or an accredited dental educational institution approved by the board.

16 (b) Bona fide full-time students of dentistry who, during the period of their enrollment and as a  
17 part of the course of study in an Oregon accredited dental education program, engage in clinical  
18 studies on the premises of such institution or in a clinical setting located off the premises of the  
19 institution if the facility, the instructional staff and the course of study to be pursued at the off-  
20 premises location meet minimum requirements prescribed by the rules of the board and the clinical  
21 study is performed under the direct supervision of a member of the faculty.

22 (c) Bona fide full-time students of dentistry who, during the period of their enrollment and as a  
23 part of the course of study in a dental education program located outside of Oregon that is accred-  
24 ited by the Commission on Dental Accreditation of the American Dental Association or its successor  
25 agency, engage in community-based or clinical studies as an elective or required rotation in a clin-  
26 ical setting located in Oregon if the community-based or clinical studies meet minimum requirements  
27 prescribed by the rules of the board and are performed under the direct supervision of a member  
28 of the faculty of the Oregon Health and Science University School of Dentistry.

29 (d) Candidates who are preparing for a licensure examination to practice dentistry and whose  
30 application has been accepted by the board or its agent, if such clinical preparation is conducted in  
31 a clinic located on premises approved for that purpose by the board and if the procedures are lim-  
32 ited to examination only. This exception shall exist for a period not to exceed two weeks imme-  
33 diately prior to a regularly scheduled licensure examination.

34 (e) Dentists practicing in the discharge of official duties as employees of the United States  
35 Government and any of its agencies.

36 (f) Instructors of dentistry, whether full- or part-time, while exclusively engaged in teaching ac-  
37 tivities and while employed in accredited dental educational institutions.

38 (g) Dentists employed by public health agencies who are not engaged in the direct delivery of  
39 clinical dental services to patients.

40 (h) Persons licensed to practice medicine in the State of Oregon in the regular discharge of their  
41 duties.

42 (i) Persons qualified to perform services relating to general anesthesia or sedation under the  
43 direct supervision of a licensed dentist.

44 (j) Persons practicing dentistry upon themselves as the patient.

45 (k) Dental hygienists, dental assistants or dental technicians performing services under the

1 supervision of a licensed dentist in accordance with the rules adopted by the board.

2 (L) A person licensed as a denturist under ORS 680.500 to 680.565 engaged in the practice of  
3 denture technology.

4 (m) A limited access permit dental hygienist who renders services authorized by a limited access  
5 permit issued by the board pursuant to ORS 680.200.

6 **(n) A dental therapist who renders services authorized by section 3 of this 2011 Act.**

7 **SECTION 7.** ORS 679.253 is amended to read:

8 679.253. For the purpose of requesting a state or nationwide criminal records check under ORS  
9 181.534, the Oregon Board of Dentistry may require the fingerprints of a person who:

10 (1) Is employed or applying for employment by the board in a position in which the person has  
11 or will have access to information that is made confidential under state or federal laws, rules or  
12 regulations;

13 (2) Provides services or seeks to provide services to the board as a contractor, vendor or vol-  
14 unteer in a position in which the person has or will have access to information that is made confi-  
15 dential under state or federal laws, rules or regulations;

16 (3) Is applying for a license [or], permit **or certificate** that is issued by the board;

17 (4) Is applying for renewal of a license [or], permit **or certificate** that is issued by the board;

18 or

19 (5) Is under investigation by the board.

20 **SECTION 8.** ORS 680.150 is amended to read:

21 680.150. (1) Any dentist may employ a dental hygienist who may engage in the practice of dental  
22 hygiene in the office of such dentist under the general supervision of a dentist.

23 (2) Any public institution, health care facility or health maintenance organizations, as those  
24 terms are defined in ORS 442.015, may employ a dental hygienist who may engage in the practice  
25 of dental hygiene under the general supervision of a dentist.

26 (3) A dental hygienist under the general supervision of a dentist may engage in the practice of  
27 dental hygiene in any place where limited access patients are located.

28 (4) The Oregon Board of Dentistry may adopt rules specifying other locations where dental  
29 hygienists may work and shall specify in its rules the degree of supervision a dentist must exercise  
30 over the procedures the hygienist performs.

31 (5) Notwithstanding ORS 679.010 [(4)] (3), supervision by a dentist is not required when a dental  
32 hygienist determines the need for and appropriateness of sealants or fluoride, and applies sealants  
33 or fluoride at the locations and for persons described in ORS 680.205 (1) and (2).

34 **SECTION 9.** (1) **Sections 2 and 3 of this 2011 Act and the amendments to ORS 679.010,**  
35 **679.020, 679.025, 679.253 and 680.150 by sections 4 to 8 of this 2011 Act become operative on**  
36 **January 1, 2012.**

37 **(2) The Oregon Board of Dentistry may take any action that is necessary to enable the**  
38 **board to exercise, on and after the operative date specified in subsection (1) of this section,**  
39 **all the duties, functions and powers conferred on the board by sections 2 and 3 of this 2011**  
40 **Act and the amendments to ORS 679.010, 679.020, 679.025, 679.253 and 680.150 by sections 4**  
41 **to 8 of this 2011 Act.**

42 **SECTION 10.** **This 2011 Act being necessary for the immediate preservation of the public**  
43 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
44 **on its passage.**